

**THE ENVIRONMENTAL PROTECTION
AGENCY (EPA) LIBRARY CLOSURES: BETTER
ACCESS FOR A BROADER AUDIENCE?**

HEARING
BEFORE THE
SUBCOMMITTEE ON INVESTIGATIONS AND
OVERSIGHT
COMMITTEE ON SCIENCE AND
TECHNOLOGY
HOUSE OF REPRESENTATIVES
ONE HUNDRED TENTH CONGRESS

SECOND SESSION

MARCH 13, 2008

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**THE ENVIRONMENTAL PROTECTION AGENCY
(EPA) LIBRARY CLOSURES: BETTER ACCESS
FOR A BROADER AUDIENCE?**

THURSDAY, MARCH 13, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT,
COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:35 a.m., in Room 2318, Rayburn House Office Building, Hon. Brad Miller [Chairman of the Subcommittee] presiding.

BART GORDON, TENNESSEE
CHAIRMAN

RALPH M. HALL, TEXAS
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE AND TECHNOLOGY

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Subcommittee on Investigations and Oversight

Hearing on

***The Environmental Protection Agency (EPA) Library Closures:
Better Access for a Broader Audience?***

March 13, 2008
9:30a.m. - 11:30a.m.
2318 Rayburn House Office Building

Witness List

Mr. John Stephenson

Director, Natural Resources and Environment, Government Accountability Office

Mr. Charles Orzechoskie

President, American Federation of Government Employees Council 238

Dr. Francesca Grifo

Senior Scientist and Director of the Scientific Integrity Program, Union of Concerned Scientists

Mr. Jim Rettig

President-Elect, American Library Association

Ms. Molly O'Neill

Assistant Administrator for the Office of Environmental Information (OEI) and Chief Information Officer (CIO), Environmental Protection Agency

HEARING CHARTER

**SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT
COMMITTEE ON SCIENCE AND TECHNOLOGY
U.S. HOUSE OF REPRESENTATIVES**

**The Environmental Protection
Agency (EPA) Library Closures: Better
Access for a Broader Audience?**

THURSDAY, MARCH 13, 2008
9:30 A.M.—12:00 P.M.
2318 RAYBURN HOUSE OFFICE BUILDING

Purpose

The Environmental Protection Agency (EPA) manages an extensive library system designed to serve the specific needs of its research and regulatory scientists, its enforcement specialists and the interested public. Beginning in 2003, EPA managers began a series of studies of how to consolidate and restructure their library system to reduce costs among its 26 branches.

By the end of FY 2006, seven libraries were closed. The libraries closed included three regional libraries (Dallas, Chicago, Kansas City), a technical library in Edison, NJ, associated with the Region two library, a laboratory library in Region three located in Fort Meade, MD, and two libraries located in Washington, D.C. (the headquarters library and the chemical library managed by the Office of Prevention, Pesticides and Toxic Substances (OPPTS)).

Because EPA did not complete work necessary to restructure its library network, the collections previously housed in these libraries are still not fully accessible to EPA employees and the public. On Thursday, March 13 at 9:30 a.m. in Rayburn 2318 the Subcommittee on Investigations and Oversight will hold a hearing on EPA's plan to consolidate and modernize its library network and the impacts of their implementation of this plan on EPA employees and the public.

Witnesses:

The witnesses testifying at the hearing will be:

Mr. John Stephenson, Director Natural Resources and Environment, Government Accountability Office;

Mr. Charles Orzechoskie, President, American Federation of Government Employees, Council 238;

Dr. Francesca Grifo, Senior Scientist and Director of the Scientific Integrity Program, Union of Concerned Scientists;

Mr. Jim Rettig, President-elect, American Library Association;

Ms. Molly O'Neill, Assistant Administrator for the Office of Environmental Information (OEI) and Chief Information Officer, Environmental Protection Agency.

Background

This matter has been of interest to the Committee since March 2006 when Jeff Ruch, Executive Director of Public Employees for Environmental Responsibility (PEER) testified before the Subcommittee on Environment, Technology and Standards about a proposed funding cut of \$2 million dollars in the budget for EPA's regional libraries was likely to lead to the closure of library facilities. In September 2006, Mr. Gordon was joined by Mr. Dingell and Mr. Waxman (Senator Boxer later joined the request) in a letter to GAO requesting an investigation of EPA's library restructuring plan, its implementation, and its potential impacts on delivery of library services to EPA employees and the public (letter attached).

In November 2006, those same House Members, joined by Mr. Oberstar, wrote to EPA Administrator Johnson asking that he suspend all activity designed to close facilities or dispose of materials until Congress could be heard on its preferences for EPA's library system. Early in 2007, Administrator Johnson agreed to do so. In the

FY 2008 omnibus appropriation Congress included \$1 million in additional funding for EPA's libraries to reopen the regional libraries that were closed and required the Agency to provide a plan to restore library services within 90 days of the law's enactment (signed on December 26, 2007).

A good primer on the restructuring effort can be found in the attached report by CRS, this charter will briefly touch on five key questions which we hope to explore in the hearing.

1. Did EPA Have a Plan for Maintaining Continuity of Library Services When the Plan Was Implemented in 2006?

For several years, EPA managers have looked at alternative structures for delivering library services to their employees and the public. The collections in EPA's libraries are extraordinarily specialized and, in some cases, absolutely unique. The network as a whole is a unique library collection. EPA's own information procedures guidance on library materials dispersion reads in relevant part:

"Although it may be tempting to dispose of library materials quickly, the loss of important and unique materials could have serious future consequences if the Agency cannot document scientific findings or enforcement actions."¹

Used by both their science staff and their enforcement staff, the holdings in these libraries are essential to the work done at EPA. Librarians at the facilities also play an integral role in helping staff locate the most responsive, richest materials for the particular research, enforcement action, or litigation that EPA staff are pursuing.

While EPA initiated a review in 2003 that identified areas for improvement and modernization of EPA's library network, the follow-up work recommended in the 2004 report: *Business Case for Information Services: EPA's Regional Libraries and Centers*² was not done before libraries were closed or limited in their service and collections were dispersed and disposed of. The failure to do the required preparatory work suggests that no plan was guiding the library consolidation process.

Seven libraries were simply closed without the holdings being digitized, clearly prioritized for future digitization or even always secured for future access. Nothing about this effort appears to have been consistent with the guidance quoted above. In fact, the regions appear to have been presented with draconian budget cuts and then "allowed" to figure out how they would cope with those cuts with little or no guidance or coordination from Washington. This situation was guaranteed to lead to confusion and a collapse in service for many, many EPA employees.

2. Did EPA Realize Budget Savings Through Implementation of Their Plan?

EPA has said repeatedly that they had to respond to a \$2 million budget cut. This budget reduction appears to have been a cut initiated by the Agency itself. There is no line in the EPA's budget submission to Congress or in the appropriations legislation or its accompanying report where the cut to services planned for FY 2007 (which began to unfold in September 2006) was revealed. Funding for the regional libraries is included in the budget for the Office of Environmental Information which is within a larger allocation for administrative functions of the Agency. The Administration chose to fold into their budget less money for library services. It was not a problem imposed upon the agency, and this budget decision runs contrary to information in their earlier planning activities that suggested that additional resources would be required initially to move to a more electronically-based system for delivering library services. EPA initiated library closings before Congress passed EPA's appropriation for FY 2007, which ultimately included a larger overall Agency budget than was requested by the Administration, yet that did not slow the effort by EPA to implement this reduced "budget."

As to budget savings, EPA also had no accounting mechanism in place to ensure that savings would in fact be realized by closing libraries. The Agency claimed it was committed to ensuring continued access to the materials in the libraries that closed. In order to provide continued access to library materials and digitize unique EPA documents, the collections would have to be sorted, identified and cataloged for distribution to the new location. In terms of documents to be digitized, materials would have to be identified, prioritized, digitized, and hosted on a computer with

¹"EPA Library Network Procedure: Library Materials Dispersion," Issued by the EPA Chief Information Officer pursuant to delegation 1-19 dated 07/07/05.

²*Business Case for Information Services: EPA's Regional Libraries and Centers*. Prepared by Stratus Consulting for U.S. Environmental Protection Agency, Office of Environmental Information, EPA 260-R-001, January 2004.

an effective interface to allow searching and retrieval. The prospect of virtual libraries is tempting, but it is not a cheap exercise.

The 2004 study on library restructuring laid out all the analyses that would have to occur to result in a net benefit to the government. GAO found that none of that research—including surveying library users about their needs, conducting a complete inventory of each library’s information resources, and fully evaluating alternative models for delivering library services—had taken place.

The *Business Case* report had laid out a high bar to get over for any plan aimed at closing libraries and changing access: they found that for every dollar spent, anywhere from \$2 to \$5.70 came back to the Agency and the public in benefits. The active involvement of librarians in searches for materials was the primary gain from the library system as it existed. Librarians were found to both speed searches for materials and improve the quality of materials identified for a specific purpose. Digitizing collections alone would not fully capture those benefits—or necessarily offset the costs of searches done absent expert knowledge of reference material contained in the collections.

3. Has EPA’s Effort to Digitize Library Holdings Resulted in Greater Access to Library Collections?

On its face, a claim that modernizing a library system through delivery of web-based or electronic library services is persuasive. It sounds like it should be cheaper to maintain, cheaper to provide access and that it would result in expanded access to library collections and services. However, in the case of EPA’s efforts, there is little evidence that these presumed benefits have been realized or will be in the near-term. Digitization of library materials does not require libraries to be closed, yet EPA closed libraries before collections were properly inventoried and digitization of materials appropriate for conversion to electronic media was completed.

EPA still has not digitized all materials eligible for digitization and it is unclear whether the products of this effort are appropriate for use by a library system. Materials were simply boxed up and stored or shipped to other EPA libraries; some materials were disposed of (including materials being tossed into dumpsters), and others were distributed to other public and private libraries. While employees who used closed libraries have all been provided with guidance on how to work with libraries that remain open somewhere in the system, it is still unclear whether collections from the closed libraries are still accessible to employees. Public access to these materials has apparently not yet been restored.

4. Did Implementation of EPA’s Plan Ensure Continuity of Library Services to EPA Employees and the Public or Improve Library Services?

Library Services have been interrupted for both EPA employees and the public. Not only have libraries been closed, but librarians with experience in managing the individual collections are no longer with the Agency. As important as the loss of access to materials was the loss of qualified librarians to help employees and the public navigate the extensive, often technical, holdings in these libraries. The closure of seven libraries had an absolute impact on the ability of EPA employees to do their jobs. In August of 2007, the Office of Enforcement and Compliance Assurance provided a position paper on the closure plan arguing that it would materially impact their ability to enforce the law.³

Another sign of the impact on employees was that it was substantial enough to contribute to a Federal Mediation and Conciliation Service arbitrator to find “that the changes effected by the Agency associated with the reorganization of its Library Network did, in some profound ways, affect the working conditions of the Union’s bargaining unit employees.”⁴ Agency employees complained to their Union representatives as well as to the Union of Concerned Scientists (UCS) and to the Public Employees for Environmental Responsibility (PEER) about these conditions.

EPA’s failure to conduct the follow-on work necessary to realize the benefits of modernizing the delivery of library services resulted in a disruption of library service to EPA employees and the public. Service has not improved nor is the same level of service being provided today as existed prior to the closure of the libraries. This is especially true for service to the public. The 2004 study noted that: “EPA libraries often act as the safety net, catching the most frustrated members of the public try-

³ Office of Enforcement and Compliance Assurance Position Paper on the 2007 EPA Library Plan, 8/23/2006.

⁴ In the Matter of the Arbitration Between the U.S. Environmental Protection Agency and American Federation of Government Employees, AFL-CIO, Council 238, FMCS Case No. 07-50725, February 15, 2008, p. 66.

ing to find information or assistance.”⁵ The safety net has now been eliminated at five locations and hours have been reduced at other EPA libraries.

5. What Is the Path Forward?

As mentioned above, Congress has appropriated funds to reopen closed libraries. Note that the Region 5 library’s physical infrastructure was auctioned by the General Services Administration—\$40,000 worth of shelves, desks and materials went for \$300. The EPA also is required to present Congress with their plan for the future. That plan is due later in March, but the Subcommittee hopes to learn what steps EPA has taken to restore those libraries and get a firm commitment on when the agency’s plan will be delivered to Congress.

GAO and the other witnesses at the hearing will also offer their recommendations on the steps EPA should take to restore library services to their employees and the public and to move forward with a modernization plan that truly delivers on EPA’s stated goal of providing broader access to environmental information to a wider audience.

⁵*Business Case for Information Services: EPA’s Regional Libraries and Centers*. Prepared by Stratus Consulting for U.S. Environmental Protection Agency, Office of Environmental Information, EPA 260-R-001, January 2004. Page 3.

Congress of the United States
House of Representatives
Washington, DC 20515

September 19, 2006

The Honorable David M. Walker
 Comptroller General of the United States
 U.S. Government Accountability Office
 441 G Street, NW
 Washington, DC 20548

Dear Mr. Walker:

We are writing to request that the Government Accountability Office (GAO) examine the Administration's plan, incorporated in the President's fiscal year 2007 budget proposal, to cut funding for the Environmental Protection Agency's (EPA) library system by over 30 percent. This budget cut will force EPA to substantially restructure EPA library services by closing some libraries and reducing hours and services in others. We have grave concerns about the effects of this plan on EPA's ability to protect the environment, and we question whether the plan will actually save the government money.

EPA professional staff assert that the proposed cuts to EPA's library system will harm the Agency's ability to carry out its mission and will be especially damaging to EPA's ability to enforce environmental laws. They also fear that, due to inadequate planning and lack of funding for digitizing documents, access to many documents will be temporarily or permanently lost. Additionally, these cuts could deprive the public of access to critical environmental information in many parts of the country.

Background

The President's fiscal year 2007 budget proposal for EPA reduces funding for the EPA library system by two million dollars, a 30 percent cut from previous levels. The decision to target the cut to the 10 Regional libraries and the Headquarters library will result in substantially greater proportional cuts to these libraries and has already resulted in the closure of the Region 5 library. On August 15, EPA's Office of Environmental Information (OEI) issued a plan¹ for a new structure for the EPA library system based on the assumption the budget cut will occur.

The EPA Library Network consists of 27 libraries distributed throughout the country. The libraries serve EPA's 10 regional offices, 2 research centers, 12 research laboratories and EPA Headquarters. EPA's library system also serves the public. The system contains a large collection of unique materials that are not available through other sources. Each regional library primarily serves the region in which it is located and contains specialized materials.

¹ Office of Environmental Information, U.S. EPA. EPA FY 2007 LIBRARY PLAN: National Framework for the Headquarters and Regional Libraries. August 15, 2006.

The Honorable David M. Walker
September 19, 2006

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relevant to EPA activities in the area, including enforcement actions. Some of the libraries also serve as repositories for materials the Agency is required to make available to the public under various environmental statutes.

Timely access to information is essential to the Agency's work. EPA's scientists, engineers, regulators, and attorneys utilize the libraries' collections and services to assemble the information they need to enforce environmental laws, develop responsible regulation, and conduct environmental assessments and research.

Concerns About the EPA Plan

While the OEI plan is vague on specifics, a key element is its "phased approach to the closure of physical libraries," which suggests that EPA will close a number of its existing libraries. EPA has already identified three libraries to close and has begun implementing the plan by dispersing collections and reducing services, even though Congress has not yet approved EPA's FY 2007 appropriations. The plan aims to continue to provide access to documents electronically, but does not discuss the number of documents that would need to be digitized, the timeframe, or the amount and source of funding that would be necessary to carry this out.

EPA professional staff have raised strong concerns about this plan. The Office of Enforcement and Compliance Assurance (OECA) issued a position paper outlining the office's concerns about the effects of library closures on enforcement efforts.² The OECA paper suggests that EPA is implementing a seriously flawed plan that: (a) may increase costs to the EPA program offices that rely upon the libraries' services; (b) risks losing valuable information; and (c) fails to ensure the availability of information in a timely manner, as is often critical in enforcement efforts. The presidents of 16 local unions representing at least 10,000 EPA employees wrote to Congress to protest the loss of EPA's technical libraries.³ Among other issues, the letter states that, while there will be real losses in information availability, it is not clear that there will be any cost savings.

As the EPA staff note, the estimated savings of \$2 million annually may be illusory and do not appear to be sufficient justification for making information less accessible within the Agency and to the public. A report produced by Stratus Consulting for the EPA Library Network in 2004⁴ paints a very positive picture of EPA's library network and estimates conservatively that EPA's library network has a benefit to cost ratio of over 4:1. This suggests the plan may result in a net cost to the Agency if costs for retrieval of information are shifted to individual program offices or if additional funds are required to maintain availability of documents through intra- or internet access. For example, EPA's libraries contain many documents that have not been

² Office of Enforcement and Compliance Assurance, U. S. EPA, OECA Position Paper on the 2007 EPA Library Plan, August 23, 2006.

³ Letter from Presidents of 16 Local Unions to Senators Conrad Burns and Byron Dorgan, June 29, 2006.

⁴ Office of Environmental Information, U. S. EPA, Business Case for Information Services: EPA's Regional Libraries and Centers, January 2004, EPA 260-R-04-001.

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September 19, 2005

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digitized. It appears that EPA plans to shut libraries first and digitize documents later. It is unclear from the budget proposal or the plan what funds will be allocated to ensuring that paper and microfiche documents will be digitized and made available electronically.

The public expects EPA to fulfill its mission of protecting human health and the environment. The Agency cannot accomplish this without information. EPA needs the information in these libraries and the services of professional librarians to facilitate timely access to this information.

EPA's activities are funded by the public and are designed to serve the public. A shuttered library does not further open and transparent government. It is unclear from the process that has occurred whether EPA at any point solicited comments or opinions from the external users of these library services about their plans to close libraries and to disperse and dispose of their collections.

We fully support the goal of modernizing the management and delivery of information services within the government and to the public. Information and communication technologies provide opportunities for the government to utilize and distribute information more efficiently both internally and externally. Modernization should occur, however, within a framework that ensures continuity in the delivery of service during the modernization process. The result should be enhanced and expanded access to information, not vague promises of future improvements to information services, while real access to information is eliminated without Congressional action.

Therefore, we request that GAO examine the plan for restructuring the EPA library network, its justification, and its implementation. We ask that GAO address the following questions in its examination:

- 1) How will EPA's plan affect the delivery of information services to Agency employees and the public? Will the services to Agency employees and the public be degraded, maintained at current levels, or improved through the implementation of this plan?
- 2) What is the current status of EPA's planned changes to its library system? What changes has EPA already made, and what additional changes are planned? For the libraries in the system that have already been closed, what is the status of their collections?
- 3) What criteria are being used to decide which materials in the EPA collection will be disposed of or dispersed to other locations? Are these criteria appropriate and being implemented in a manner that ensures documents are not lost or inaccessible for an extended period of time?
- 4) What plans have been made and what funds are available to digitize the paper holdings of these libraries? What is the estimated time and expense required to complete this transition? What provisions have been made to ensure these documents are available to Agency employees and the public prior to the time they will be made available in electronic form?

The Honorable David M. Walker
September 19, 2008

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- 5) What costs are associated with any replacement of library services that are undertaken by individual program offices? Does this plan result in a redistribution of costs from the Office of Environmental Information to other Program Offices?
- 6) What, if any, provisions have been made to ensure that documents required to be available to the public under EPA's statutes (e.g. Superfund) will continue to be accessible as required by law?
- 7) In developing its plan, did EPA solicit input from members of the public that use its library system? If so, what concerns were raised and are they adequately addressed by EPA's plan? Did EPA take environmental justice issues into account in developing the plan to close its libraries?

Please contact Jean Fruci with the Committee on Science staff (202-225-6375), Alexandra Teitz with the Committee on Government Reform staff (202-225-5420), and Lorie Schmidt with the Committee on Energy and Commerce staff (202-225-3400) to discuss in detail the specific scope of work and timeline for completing this request.

Sincerely,


BART GORDON
Ranking Member
Committee on Science


HENRY WAXMAN
Ranking Member
Committee on Government
Reform


JOHN D. DINGELL
Ranking Member
Committee on Energy and
Commerce



Order Code RS22533
Updated August 22, 2007

CRS Report for Congress

Restructuring EPA's Libraries: Background and Issues for Congress

David M. Bearden and Robert E. Erworthy
Resources, Science, and Industry Division

Summary

Near the end of the 109th Congress, some Members raised questions about the closing of several libraries of the Environmental Protection Agency (EPA), expressing concerns about the continued availability of their collections. Library professional associations and public interest groups raised similar questions about access to this information. EPA reported that the closings were part of its efforts to restructure its libraries in response to the agency's transition from walk-in services to electronic dissemination of information, as a result of the increasing use of the Internet to access its collections. In response to concerns about this transition, EPA is refining its plan to restructure its library network, and reports that it will not make any further changes to its library services until the plan is completed and reviewed by affected stakeholders. As EPA refines its plan, interest in the library closings has continued in the 110th Congress. In its report on the FY2008 Interior appropriations bill (S. 1696, S.Rept. 110-91), the Senate Appropriations Committee recommended a \$2.0 million increase above the President's FY2008 budget request for EPA to restore the libraries that have been closed or consolidated. Some Members also have questioned the library closings in hearings and in written communications with EPA.

Introduction

EPA established a library network in 1971, a year after the agency's creation. These libraries house a wide range of scientific, technical, and legal information. EPA staff use this information in multiple ways to carry out the agency's mission, such as the setting and enforcement of pollution control standards. EPA's libraries also serve the public. Over time, EPA had expanded its network into 26 libraries, operated by different agency offices depending on the specialized nature of the collections. EPA began restructuring its libraries in FY2007 in an effort to transition from walk-in services to electronic dissemination of its collections. As part of this restructuring, EPA closed five of its libraries at the beginning of FY2007, including its Headquarters library in Washington, DC. EPA also has altered access at some of its libraries that have remained open. Table 1 indicates the operating status of each library in EPA's network as of August 2007.

EPA reports that walk-in services remain available to the public at most of the libraries that remain open, but that an appointment is required or preferred at some libraries. Certain libraries also have restricted access to EPA staff, and only offer reference services to the public via telephone, fax, or e-mail. EPA is refining its plan to restructure its library network, and reports that it will not make any further changes to its library services until the plan is completed and reviewed by affected stakeholders. The following sections of this report summarize EPA's efforts to restructure its libraries, examine relevant issues, and discuss congressional action in appropriations bills, hearings, and written communications from individual Members to the agency.

Table 1. EPA Library Operating Status as of August 2007

Library	Location	Operating Status
Repository Libraries		
Headquarters	Washington, DC	Repository Only — Library Closed (10/06)
Environmental Research Center	Research Triangle Park, NC	Open to the Public
Environmental Research Center	Cincinnati, OH	Open to EPA Staff Only
Regional Office Libraries		
Region 1	Boston, MA	Open to the Public — Appointment Required
Region 2	New York, NY	Open to the Public — Appointment Required
Region 3	Edison, NJ	Closed (9/04)
Region 5	Philadelphia, PA	Open to the Public
Region 4	Atlanta, GA	Open to the Public
Region 5	Chicago, IL	Closed (10/06)
Region 6	Dallas, TX	Closed (10/06)
Region 7	Kansas City, KS	Closed (10/06)
Region 8	Denver, CO	Open to the Public
Region 9	San Francisco, CA	Open to the Public
Region 10	Seattle, WA	Open to the Public
Specialized Libraries		
Legislative Reference Library	Washington, DC	Open to EPA Staff Only
Office of General Counsel Law Library	Washington, DC	Open to the Public — Appointment Preferred
Chemical Library	Washington, DC	Closed (10/06)
Environmental Sciences Library	Denver, CO	Open to the Public — Appointment Required
Research Laboratory Libraries		
Atmospheric Sciences Modeling Division Library	Research Triangle Park, NC	Open to the Public
Environmental Sciences Division Technical Research Center	Las Vegas, NV	Open to the Public — Appointment Required
Ecosystems Research Division Library	Atlanta, GA	Open to the Public
Adaptive Ecology Division Library	Narragansett, RI	Open to the Public
Gulf Ecology Division Library	Gulf Breeze, FL	Open to the Public — Appointment Required
Mid-continent Ecology Division Library	Duluth, MN	Open to the Public
Western Ecology Division Library	Corvallis, OR	Open to the Public
Groundwater and Ecosystems Restoration Division Library	Ada, OK	Open to the Public
National Vehicle and Fuel Emissions Laboratory Library	Ann Arbor, MI	Open to the Public

Source: Prepared by the Congressional Research Service with information from EPA's National Library Network web page at <http://www.epa.gov/natlibnetwork.htm>.

EPA's Efforts to Restructure Its Libraries

Although EPA did not initiate the restructuring of its library network until FY2007, the agency has been assessing its library services for the past few years, as reliance on the electronic dissemination of its collections has become more widespread. In January 2004, EPA's Office of Environmental Information (OEI) completed a cost-benefit analysis of its library services to inform decisions about how best to disseminate its collections.¹ This study concluded that EPA's libraries provide "substantial value" to the agency and the public, with a benefit-to-cost ratio ranging between 2:1 and 5.7:1. These benefits are based on time saved in finding information with the assistance of a librarian. The calculated benefit-to-cost ratio varied depending on the dollar value ascribed to time savings and the type of service provided. The OEI study also noted other unquantifiable benefits, such as the higher quality of information typically found with the assistance of a librarian. While the study noted the benefits of EPA's library services, it also acknowledged the need for altering how these services are provided to respond to technological changes in how users obtain information, as well as future budget uncertainties affecting the agency's ability to continue services in their present form.

In August 2006, EPA released an initial plan to restructure its libraries, with implementation starting in FY2007.² EPA determined that the utility of some of its libraries had declined as the agency made more information available through the Internet and as heightened security at its facilities led to fewer public visitors. Because of these factors, the plan recommended the closing of EPA's library at its Headquarters Office in Washington, DC, and its libraries in Regions 5, 6, and 7. EPA closed these four libraries at the beginning of FY2007. As indicated in **Table 1**, EPA also has closed its Chemical Library and has altered access at several other libraries that remain open. These latter changes were not identified specifically in EPA's original FY2007 restructuring plan.

Although walk-in services are no longer available at the libraries that have closed, EPA reports that the public will have access to these collections through the Internet and will continue to be able to request items by telephone, fax, and e-mail. EPA also reports that its staff will continue to have access to its collections via the agency's intranet and internal agency exchanges. Although many items in EPA's collections are available through the Internet, not all items are in electronic format. EPA is in the process of digitizing its collections and selecting paper collections for archiving in agency repositories and possibly other libraries, including the Library of Congress. EPA's initial restructuring plan also indicated that some dated materials may be discarded. The plan provided guidelines for EPA staff to determine how the collections are to be managed, but did not identify which specific materials would be retained, disbursed, or discarded, nor the time frame within which that process would be completed.

¹ EPA, Office of Environmental Information, *Business Case for Information Services: EPA's Regional Libraries and Centers*, EPA 260-R-04-001, January 2004, 21 pp. Available on EPA's website at [<http://www.epa.gov/natlbra/epa260r04001.pdf>].

² EPA, Office of Environmental Information, *EPA FY 2007 Library Plan: National Framework for the Headquarters and Regional Libraries*, August 15, 2006, 18 pp. Available on EPA's website at [http://www.epa.gov/natlbra/Library_Plan_National_Framework081506final.pdf].

Members and committees of Congress, library professional associations, public interest groups, and individuals expressed numerous concerns about the restructuring of EPA's library network, as the agency proceeded with the implementation of its plan and closed the above-mentioned libraries in October 2006. Prior to the closings, employee unions representing EPA staff also had written to the House and Senate appropriations committees in June 2006, expressing their concerns about the availability of information needed to carry out the agency's mission.³ In response to this array of concerns, the EPA Administrator announced a temporary moratorium in January 2007, prohibiting the agency from making further changes to its library services for 90 days.⁴

EPA has extended the moratorium, and indicates that it is reviewing its methods of delivering library services to make its collections available to EPA staff and the public. EPA reports that no further changes will be made to its library services until the agency has refined its restructuring plan, and the final plan has been reviewed and communicated among affected stakeholders. The agency has issued a draft outline for the next version of its restructuring plan, the *EPA Library Strategic Plan for 2008 and Beyond*.⁵ The draft identifies the agency's objectives and the procedures that it intends to develop to continue its transition to the electronic dissemination of its collections, while continuing to provide "an appropriate level" of access to physical libraries and professional library staff. What the agency would consider appropriate access is unclear.

Key Issues

Questions about the implementation of EPA's initial plan to restructure its libraries have been rooted in concerns about continued access to critical information needed to understand the effects of pollutants and contaminants on human health and the environment. Although EPA states that the restructuring of its libraries is a necessary element in its continued transition to the electronic dissemination of information, opponents have raised numerous issues in regard to how this transition would occur and how certain collections would be affected. Among the primary concerns are which materials would be selected for retention, dispersal to other libraries, or disposal.

Whereas EPA's initial restructuring plan provided guidelines for these decisions, it did not include mechanisms to oversee how they are applied, or a means through which the public could comment on collections decisions. Questions were raised as to whether some materials that may be deemed of value to certain users could be permanently discarded. Of the collections that are retained, it is uncertain which materials would be converted to electronic format and made available through the Internet, or physically archived. EPA also has noted that it will not be able to digitize copyrighted materials in its collections, raising questions about continued access to these materials. Increased use of the Internet for access to EPA's collections also raises questions as to whether agency

³ The letter is available on the website of Chapter 280 of the National Treasury Employees Union, representing EPA headquarters staff, at [<http://nteu280.org/Issues/EPA.Library.End.pdf>].

⁴ Letter from Stephen L. Johnson, EPA Administrator, to the Chairmen of the House Committees on Energy and Commerce, Oversight and Government Reform, Transportation and Infrastructure, and Science and Technology, January 12, 2007.

⁵ The draft outline of the forthcoming library strategic plan is available on EPA's website at [<http://www.epa.gov/natlinfo/EPALibraryStrategicPlanOutlineALAFinal.pdf>].

staff and the public may need to rely more heavily on themselves to find information. EPA more recently has confirmed on its website, cited in **Table 1**, that its remaining libraries will continue to offer reference services to the public via telephone, fax, or e-mail.

There also have been questions about access to EPA's collections while physical documents are being converted into electronic format. EPA reports that documents selected for electronic conversion will be catalogued and tracked while awaiting conversion, and that agency staff and the public will be able to request these documents. There is some uncertainty as to whether the time required to retrieve documents from storage may delay the availability of information. Converting the agency's physical collections to electronic format also could present technical challenges in terms of the quality of digitized items, and in ensuring that the information remains in a usable electronic format over the long term as data storage technologies change over time. How these and other issues will be addressed in EPA's forthcoming library strategic plan is unclear.

Appropriations

The restructuring of EPA's library network has received attention in the FY2008 appropriations debate. On June 26, 2007, the Senate Appropriations Committee reported the Interior, Environment, and Related Agencies appropriations bill for FY2008 (S. 1696, S.Rept. 110-91), which included funding for EPA. The committee recommended an increase of \$2 million above the President's budget request to restore the libraries that EPA has closed or consolidated. Although the committee expressed its support for EPA's efforts to make data and information available electronically, it opposed further closures or consolidation of the remaining libraries "without evidence of how the public would be served by those changes."⁶ The committee directed EPA to submit a plan by December 31, 2007, explaining how it would use the \$2 million increase to reopen the libraries that the agency has closed, and to maintain its collections in each region. The House did not alter the President's request for EPA's library network, nor otherwise address this issue, in passing its version of the bill (H.R. 2643, H.Rept. 110-187) on June 27, 2007.

The Senate Appropriations Committee's recommendation would raise the funding level for EPA's library network to a total of \$8 million in FY2008. As indicated in **Table 2**, the President had requested \$6 million, which would continue a downward trend in funding each year since FY2005. This decline is largely because of reduced costs resulting from the closure of the agency's Headquarters library, Chemical Library, and the libraries in Regions 5, 6, and 7. The decline also is due to reduced costs from changes in services at other libraries that have remained open. Even though five of the libraries have closed, the President's FY2008 budget request did include funding to manage their collections, and to continue digitizing agency publications. Funding also would increase, or remain constant, for certain libraries in the network, despite the overall downward trend. The Senate Appropriations Committee's recommendation did not appear to alter these aspects of the President's budget request, but increased the total amount of the request to restore the libraries that were closed or consolidated in 2006.

⁶ 110th Congress. Senate Appropriations Committee report to accompany S. 1696, the Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2008, S.Rept. 110-91, June 26, 2007, p. 57.

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Table 2. Appropriations for EPA Libraries: FY2005-FY2008

FY2005 Enacted	FY2006 Enacted	FY2007 Enacted	FY2008		
			President's Request	House- Passed	Senate- Reported
\$8,033,000	\$7,710,000	\$6,540,000	\$6,035,000	\$6,035,000	\$8,035,000

Source: Prepared by the Congressional Research Service with information from the following sources:

FY2005-FY2007 enacted amounts, and the President's FY2008 request, were provided by EPA's Office of Congressional and Intergovernmental Relations in a written communication on May 11, 2007.

FY2008 House-passed amount is assumed to be the same as requested, as the House did not alter the request in passing the FY2008 Interior appropriations bill (H.R. 2643, H.Rept. 110-187) that would fund EPA.

FY2008 Senate-reported amount is based on an increase of \$2 million above the request recommended by the Senate Appropriations Committee in its report on the FY2008 Interior appropriations bill (S. 1696, S.Rept. 110-91.)

Other Congressional Action

In addition to appropriations bills, Congress has addressed the restructuring of EPA's libraries in hearings and in written communications with the agency. Toward the end of the 109th Congress, some Members began to express concerns about continued access to critical information in EPA's libraries, and wrote to EPA requesting a status report on the agency's efforts to digitize its collections, and urging the agency not to close its libraries or to permanently dispose of any materials. Citing similar concerns, the then Ranking Members of the House Committees on Science, Government Reform, and Energy and Commerce requested in September 2006 that the Government Accountability Office (GAO) examine EPA's library restructuring plan.⁷ GAO's examination is ongoing.

In the 110th Congress, the Senate Committee on Environment and Public Works held an oversight hearing on February 6, 2007, to examine numerous EPA decisions, including the agency's plan to restructure its libraries. At this hearing, some Members questioned EPA's decision to close certain libraries, to reduce access at others, and to archive or dispose of certain collections. In the House, the Chairmen of four committees, including Energy and Commerce, Oversight and Government Reform, Transportation and Infrastructure, and Science and Technology, wrote to EPA on April 26, 2007, expressing concern about the agency's management of its libraries and collections.⁸ The committees requested an update on the operational status of EPA's library network, and questioned how the agency was complying with its "commitment" not to close additional libraries or dispose of materials under the Administrator's temporary moratorium. As noted earlier in this report, EPA has extended the moratorium until the agency's new strategic plan for its library network is completed and reviewed by affected stakeholders. How the new plan would address outstanding questions and concerns is unclear at this time.

⁷ The letter is available on the House Science Committee website at [http://sciencedem.house.gov/Media/Files/ForReleases/gordon_eqa-libraries_09sep06.pdf].

⁸ The letter is available on the House Energy and Commerce Committee website at [http://energycommerce.house.gov/Press_110/110-ltr.042607.EPA.Libraries.pdf].

Chairman MILLER. Good morning. Welcome to this hearing this morning: "The Environmental Protection Agency (EPA) Library Closures: Better Access for a Broader Audience?"

The EPA has built an absolutely unique library system. It contains collections of documents that are very specialized, and are used to inform scientific advice, regulatory proposals, and enforcement of environmental laws. With 26 branches around the country, the network, as it stood in the beginning of 2006, was an integrated whole, with regions possessing collections appropriate to those regions, as well as a general collection of journals and books.

By the end of that year, however, the system was in disarray. EPA headquarters had imposed an 80 percent budget cut on the regional library system, which resulted in the closings of the Chicago, Dallas, and Kansas City libraries, and closed both the Headquarters Library and the Chemistry Library in Washington. The materials of those libraries were boxed, stored, shipped, given away, and in some cases, apparently, just thrown away.

Members of the public, EPA employees, Members of Congress, were all concerned about the way the library closings developed, and Congress had no real warning that it was coming. And neither did the employees or the public, who rely upon the EPA's library system. Our Full Committee Chairman, Mr. Gordon, joined in a GAO request, a Government Accountability Office request, with Chairman Dingell and Chairman Waxman, as well as Senator Boxer, and gave the GAO the task of examining the methods used by the EPA for closing the libraries.

We will hear the testimony of the GAO today, but their findings confirm that our concerns about the library closings were very well founded. EPA managers had quietly begun considering how to consolidate the libraries and modernize their libraries in 2003. They gave it a lot of thought. They developed a thoughtful plan to avoid hobbling the EPA's work or the public's access, to develop a continuous availability of the information, with minimum disruption.

But then, when it came time to consolidate the system, those managers, EPA managers, just ignored all of that careful planning, and simply shut the libraries, or told the libraries your budget is now 20 percent of what it was before. Deal with it.

There was no effort to reach out to the staff, to learn what they needed from the libraries, and how to serve the EPA employees' continued work, that the EPA managers did not try to establish priorities in library holdings, or to digitize those holdings before boxing them up, so that they would remain continuously available to the EPA and to the public. They made no effort to do a cost-benefit analysis of various ways to organize the library system, and when it came to decisions to close libraries, EPA headquarters made no effort to provide guidance or assure integration within the system. Again, headquarters simply announced a \$2 million cut, leaving \$500,000, a half a million, across the regional system, and just told the regions to figure out, figure it out. Your budget is 20 percent of what it was before. Deal with it.

Perhaps it is not surprising that the library system was as disrupted as it has been, that libraries have closed. What is pretty remarkable is the effort of EPA's employees to keep the libraries open, even if they have had to reduce hours and access.

The most generous interpretation of EPA's conduct in closing the libraries is incompetence, that EPA managers grossly mismanaged the library system. Despite careful thinking and planning, in the end, incompetence seems to have ruled the manner in which the EPA budget cuts were administered.

Others see a more sinister motive. Because it is undoubtedly the case that closing the libraries and limiting access to important information reduces the ability of EPA employees to protect the environment or the public health, it certainly hobbles the work, also, of independent scientists who had relied upon the libraries. I am not persuaded that there was actually a conscious motive behind those actions of hobbling the work of the EPA and of independent scientists, but it is an unavoidable and absolutely predictable consequence of what management did in 2006, and there is a well known legal doctrine that you are held to the natural consequences of your conduct, of your actions.

EPA managers took a library system that was working well, that was the best in the world at what they did, that they knew was important to what EPA did, that they knew was important to independent scientists, and they disrupted it so much that it will take years and a lot of money to make things right, and some things will never be made right.

So, where do we go from here? First, Congress directs, through the 2008 Omnibus Appropriation, that the regional libraries that have been closed should be reopened. I congratulate Senator Boxer for her strong work to make that happen. And I want to know what EPA is doing to follow that direction from Congress.

Second, the Agency should reopen its headquarters and chemical libraries. Those are central assets that serve the Washington staff of EPA, and the loss of those libraries is a tragedy. Third, EPA managers need to return to the studies of 2004 and 2005 for how to consolidate and manage and modernize the libraries. There should certainly be no further closings until the holdings of the libraries have been effectively cataloged, evaluated, ranked in priority order, and digitized.

No library should be closed without a promise, should be closed with a promise of eventual Internet or Intranet access, until the search engines that would make it happen are proven to provide the access that is promised. No library should be closed until methods are established to guarantee librarian support for the work of the libraries, even, and for the EPA and for the scientists who depend upon those libraries, even if that work is done with virtual materials.

Finally, no effort to restructure services should come without significant consultation and guidance from the staff of the Agency, the concerned public, the scientists who depend upon those libraries, and with Congress.

We are right in the Constitution, right there, just before Article II, Article I. We are not meddling. We are part of the government.

We have an excellent panel of witnesses with us this morning. I look forward to their testimony, your testimony, and your recommendations on how to rebuild and modernize the EPA's network.

Now, I would like to recognize Mr. Hall, who is filling in today for Mr. Sensenbrenner of Wisconsin. Mr. Hall, would you like to make an opening statement?

[The prepared statement of Chairman Miller follows:]

PREPARED STATEMENT OF CHAIRMAN BRAD MILLER

Good morning and welcome to today's hearing on the Environmental Protection Agency's (EPA) management of its library system.

EPA has developed an absolutely unique library system. It contains collections of documents that are very specialized and are used to inform scientific advice, regulatory proposals, and enforcement of environmental laws. With 26 branches across the country, the network as it stood in early 2006, was an integrated whole with regions possessing collections appropriate to the issues in those regions as well as other journals and books.

By the end of 2006, that system stood in disarray. In the interim, EPA headquarters had imposed an almost 80 percent budget cut on the regional library system—which resulted in closings of the Chicago, Dallas and Kansas City libraries—and had closed both the headquarters library and the chemistry library in Washington, D.C. The materials of those libraries were boxed, stored, shipped, given away or simply thrown away.

Members of the public, EPA employees and Members of Congress were all concerned about the way the library closure process unfolded. Congress had no real warning that this was coming—and as it turns out neither did employees or the public. Our Full Committee Chairman, Mr. Gordon, was joined in a GAO request by Chairmen Dingell and Waxman as well as Senator Boxer. GAO was tasked with examining the methods used by EPA for closing the libraries. We will hear their testimony today, but their findings confirm that our concerns were well founded.

EPA managers had quietly begun studying how to consolidate and modernize their library system in 2003. They gave it a lot of thought. They developed a terrific road map to how to do it in a 2004 report. Then, when it came time to consolidate the system, those managers simply ignored all the careful planning they had engaged in and simply shuttered libraries. No effort had been made to reach out to staff to learn what they needed and how to better serve them. No effort had been made to prioritize library holdings and digitize those holdings, prior to boxing them up, so that they would remain available to EPA and the public. No effort was made to even do a careful cost-benefit analysis of various ways to reorganize the library system. And when it came to decisions to close libraries, headquarters made no effort to provide guidance or assure integration across the system. Headquarters simply announced a \$2 million cut—leaving just \$500,000 across the regional system—and left it to the regions to figure out what to do. Perhaps the surprise isn't that so many libraries closed, but that so many found the means to stay open—even if they reduced their hours and access.

The best interpretation of this situation is that EPA managers appeared to grossly mismanage their library system. Despite all the careful thinking and planning, in the end, incompetence seems to have won the day. Others may see a more nefarious motive in these actions, because it is undoubtedly the case that closing libraries and limiting access to important information reduces the ability of EPA employees to act to protect the environment or the public health. I am not persuaded that was the motive behind these actions, but I do think it is an unavoidable and predictable consequence of the moves by management in 2006. They took a library system that was working, and shook it up so that much of it is not working well and it may take years and a lot of money to set things right again.

So where do we go from here?

First, Congress directed in the 2008 Omnibus Appropriation that the regional libraries that have been closed should be reopened. I want to particularly congratulate Senator Boxer for her strong work to accomplish this. I want to know what steps EPA has taken to follow that guidance.

Second, the agency should reopen its headquarters and chemical libraries. These are central assets that serve the Washington, D.C. staff of EPA and the public and the loss of these libraries is a tragedy.

Third, EPA managers need to return to its studies of 2004 and 2005 and restart their effort to enhance library services. No library should be closed until its holdings have been effectively catalogued, prioritized and digitized. No library should be closed with a promise of Internet or Intranet access, until the search engines are proven to provide meaningful access. No libraries should be closed until methods are

established to guarantee librarian support for work, even if that work is done with virtual materials.

Finally, no efforts to restructure services should come without significant consultation and guidance from the staff of the agency, the concerned public or Congress.

We have an excellent panel of witnesses with us this morning. I look forward to your testimony and your recommendations on how to rebuild and modernize the EPA library network.

Mr. HALL. I would like to, and I am going to.

With that opening statement from one of the renowned lawyers who came to Congress with the reputation of being one of the really great lawyers in the whole area that he represented, he is kind of a hard guy to take on, and I am not taking him on. I am not here to push nor to pull. I am here, really, to be a Member sitting here, to where we can get this committee going, and you do have a good panel. I know some of them, and known them for some time, but I am kind of, I have listened to you there, very capable output.

I thought about Tom Connelly, a judge, long-time judge later in the Senate, he was about to sentence a man to death, and he reiterated all of the hard crimes he had done, and how horrible and heinous it all was, and said now, do you have anything to say before I sentence you to die, and he said no, sir, the way you put it, it seemed like I'm getting off pretty light. So, I don't know if that is the way this group feels or not, but Mr. Chairman, I don't have an opening statement.

I would like to ask unanimous consent for Mr. Sensenbrenner to put a statement in the record. Without objection.

Chairman MILLER. Without objection.

[The prepared statement of Mr. Sensenbrenner follows:]

PREPARED STATEMENT OF REPRESENTATIVE F. JAMES SENSENBRENNER JR.

The Environmental Protection Agency (EPA) established its library network in 1971, one year after the Agency's creation. Since that time, the network grew to 26 libraries, serving both EPA staff and the public. In 2004, EPA's Office of Environmental Information (OEI) completed a cost-benefit analysis of EPA's library services. OEI concluded that the libraries provided "substantial value" to the agency and to the public, with a benefit-to-cost ratio ranging between 2:1 and 5.7:1. These benefits were based on time savings for EPA staff because of the benefits of assistance from a professional librarian.

In FY2007, EPA began restructuring its libraries to transition from walk-in services to electronic dissemination. As part of the restructuring, EPA closed five of its libraries and restricted access to eight more. In theory, EPA's restructuring would improve access to library materials by making them available electronically and reduce costs by eliminating the need for some of the physical structures. In practice, however, the implementation of the plan appears to have restricted access without providing any cost savings.

The Union of Concerned Scientists found that 35.6 percent of surveyed EPA scientists (555 total) agreed with the statement: the "recent changes and closures in the EPA library system have impaired my ability to do my job." This sentiment was much higher, nearly 50 percent, for scientists who practiced in areas where a physical library was actually closed.

In a report released at today's hearing, titled *EPA Needs to Ensure that Best Practices and Procedures are Followed When Making Further Changes to its Library Network*, the Government Accountability Office (GAO) found that, not only has service been interrupted, but also that EPA failed to document any costs savings. GAO wrote:

EPA's primary rationale for the library network reorganization was to generate cost savings by creating a more coordinated library network and increasing the electronic delivery of services. However, EPA did not fully follow procedures recommended in a 2004 EPA study of steps that should be taken to prepare for

a reorganization. In particular, EPA did not fully evaluate alternative models, and associated costs and benefits, of library services.

Government Accountability Office, *EPA Needs to Ensure that Best Practices and Procedures Are Followed When Making Further Changes to Its Library Network*, p. 1 (February, 2008).

EPA thus failed to follow its own guidance and failed to perform cost-benefit analysis before taking actions with the goal of reducing costs. GAO also found that EPA hindered its transition by failing to develop a plan to communicate the reorganizations to the public and its staff. Finally, EPA may have violated federal property management regulations for disposal or dispersal of library materials by failing to make a written determination that property had "no value" before discarding it. Without such a determination, regulations require that agencies report surplus property to the General Services Administration. The end result of EPA's hasty reorganization may have been reduced benefits at comparable costs.

I, of course, support any effort to provide superior service at a lower cost. EPA has not, however, demonstrated either that service was not impaired or that costs were in fact lowered. The motivation to reduce costs is not cost effective when coupled with hurried analysis and rushed execution. GAO has provided a detailed analysis of EPA's reorganization. I urge EPA to properly conduct this cost-benefit analysis and ensure continued access to an important resource.

Mr. HALL. And I would like to have the right to let Judge Broun, Dr. Broun, have my time, and I understand he just wants to put one in the record.

Chairman MILLER. Also without objection.

Mr. BROUN. I want to thank the Chairman for holding this hearing, and yes, likewise, I am looking forward to the testimony of the panel, and I also will just submit my opening statement for the record, if that is agreeable with the Chairman. I ask unanimous consent to be able to do so.

Chairman MILLER. Again, without objection.

[The prepared statement of Mr. Broun follows:]

PREPARED STATEMENT OF REPRESENTATIVE PAUL C. BROUN

I want to thank the Chairman for holding this hearing and welcome our witnesses here today.

EPA's ability to protect public health and the environment is contingent on timely access to accurate information. The existing library infrastructure plays a major role in providing that information to not only EPA, but also the general public.

While the manner in which EPA scientists, outside scholars, advocacy groups, and litigators receive information has changed over the last 20 years, the importance of that information has not. Modern information technology has given access to many more users than traditional brick and mortar libraries, but we must be cautious in how we transition to new data formats.

One of the challenges EPA faces is access. Continuous, uninterrupted, and timely access to EPA-unique documents by both EPA scientists and private citizens is critical to executing EPA's charter of protecting the environment and the public. Additionally, access to information that is not unique to EPA such as journals, commercially available information, and other reference materials are still vitally important to EPA scientists and the general public. Even though access to this information can be obtained through other means such as interlibrary loan or Internet accessed databases, rarely is it as timely or as efficient as having it on-site.

Another challenge EPA must address is how to keep professional research support staff and librarians involved in the process. These key professionals will still be required to help users navigate the ever-growing collections of data, perhaps even more so in our new digital age.

How to manage EPA's library infrastructure investment and balance the competing concerns of access and efficiency is no easy task. EPA began the process of transitioning to a more modern system in 2003 by doing all the right things. They conducted a cost-benefit analysis and reviewed the program no less than four times between 2004 and 2006. Unfortunately, it doesn't seem as though EPA learned from these reviews, or consulted with any outside experts such as the American Library Association (ALA), internal unions, or outside users. Rather than carefully and methodically implementing a transition, they instead closed libraries in an abrupt attempt at cost savings. Earlier EPA reviews had pointed to the cost effectiveness of

the library infrastructure, but those reviews apparently did not influence their decision.

While EPA's motivation to modernize the way it provides information to its employees and the general public should be commended, we in Congress have the responsibility to ensure that the process is done in a prudent manner that does not adversely impact the end-users.

I want to commend GAO for their excellent work on the topic. I look forward to the witness's testimony today and pledge to work with EPA to make certain that any changes to the library system do not negatively impact end-users that are tasked with protecting our environment and public health.

Thank you Mr. Chairman. I yield back my time.

Chairman MILLER. And if there are any Members of the Committee, of the Subcommittee who are not here this morning, we will also welcome statements that they may submit.

So, all that, without objection, is so ordered.

[The prepared statement of Chairman Gordon follows:]

PREPARED STATEMENT OF CHAIRMAN BART GORDON

The Government Accountability Office's report on EPA's library network is a blueprint of how *not* to modernize and restructure a functioning organization.

When I requested this investigation with my colleagues back in September 2006, I suspected EPA was moving too quickly to close libraries. I was skeptical that any cost savings would be achieved through this exercise, or that the Agency was taking proper care to ensure this unique library collection would remain intact and accessible. I hoped I was wrong.

A library is more than a collection of books and documents. It is an organized body of knowledge that we continue to build upon as we expand our understanding of the world we live in. It is a public institution that promotes democracy by providing everyone the opportunity to access and utilize the accumulated knowledge of our society.

I believe libraries should move into the modern era of electronic communication just as all our other public and private institutions are doing. If it is done right, the creation of a web-based virtual library would expand access to information to a much broader audience. I fully support such a goal. Unfortunately, the EPA library network is nowhere near that goal.

Simply stating and repeating the goal of "providing greater access for a broader audience" does not accomplish it. Real work needed to be done by the Agency *prior* to emptying library shelves or closing any library doors.

GAO's report documents the Agency's failure to do any of the work necessary to ensure their stated goal for the modernization would be accomplished. EPA executed a failed process for modernizing their library network. The only goal they accomplished was to reduce the number of libraries in the EPA network. This is not a goal that serves the public or the Agency's mission.

The Agency appears to have avoided talking to any group with expertise or interest in their libraries. The Agency did not consult experts inside or outside the government to determine best practices for establishing and maintaining an electronic library. They also refused to meet with their own employees—an action that ultimately led to arbitration and a finding that the Agency violated its agreement with their Unions. EPA made no attempt to reach out to the public, and they virtually ignored Congress until they reluctantly agreed to a moratorium on further implementation of their flawed plan.

Until EPA has completed the work necessary to move to an electronic delivery of library services, the closed libraries should be reopened. Documents should be retrieved and replaced and library services should be restored to the level they were prior to the initiation of this flawed plan. The public and the EPA employees who serve them deserve no less.

[The prepared statement of Mr. Costello follows:]

PREPARED STATEMENT OF REPRESENTATIVE JERRY F. COSTELLO

Mr. Chairman, I would like to thank you for overseeing this hearing today and for your leadership of this subcommittee. The closure of the EPA libraries is one that this committee, and many other Members of Congress, has been concerned about for some time. The nature of the closures, the way in which they were carried

out and the effect on the Agency and its employees have caused a great deal of concern in both the science and library community.

I am concerned that the closure of the Region 5 EPA library has had a considerable impact on my home State of Illinois. I am interested in hearing more from our panel on this issue, as I have heard reports of concerned scientists, librarians and community members on the issue.

What I find particularly troubling about today's subject matter is that the nature in which these closures were implemented is consistent with the dismissive attitude this Administration has taken towards Congressional oversight. The reports of potentially lost unique documents and hastily-sold furniture in order to save money do not seem like part of a well-thought out plan.

I thank our witnesses for coming today and I look forward to hearing their thoughts on this matter. I yield back.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF REPRESENTATIVE EDDIE BERNICE JOHNSON

Thank you, Mr. Chairman. I would like to welcome today's witnesses to this hearing of the Subcommittee on Investigations and Oversight: both the witness from the Environmental Protection Agency as well as the witnesses from the Government Accountability Office and from stakeholder groups.

I appreciate that the E.P.A. manages an extensive library system designed to serve the specific needs of its research and regulatory scientists and its enforcement specialists.

The libraries also are a good resource for environmental data to the interested public.

The issue at hand today is not a new one.

In March 2006, Mr. Jeff Ruch, the Executive Director of Public Employees for Environmental Responsibility, testified before one of our subcommittees that a proposed funding cut of \$2 million dollars for E.P.A.'s regional libraries would likely lead to the closure of library facilities.

Surely enough, the cuts occurred, and libraries closed at the end of fiscal year 2006, including one library located in Dallas, Texas, which I represent.

Despite Congressional requests to the Government Accountability Office regarding the effects of the E.P.A.'s library restructuring plan, seven libraries were closed without the holdings being digitized or secured for future access.

While I can certainly support the Administration's interest to spend taxpayer dollars wisely, it seems to me that we are taking a step backward in making environmental resource data unavailable by closing these libraries.

I will be interested to know what efforts have been made by the E.P.A. to make the information available to the public.

In addition, I will be glad to hear the other witness testimony regarding the impact of these library closings.

Thank you, Mr. Chairman. I yield back.

Chairman MILLER. I believe that—yes, Mr. Hall. And Mr. Hall, if I ever return to the practice of law, I assume that I can use some part of what you said today in my promotional materials.

All right. I believe that we have four photographs to show before we begin the testimony. The first photograph shows the sign that now greets library visitors at EPA headquarters. "As of October 1, 2006, the EPA Headquarters Library space is closed." Now, the second photo shows the sign that greeted visitors at the Chicago library. "This U.S.A. EPA Region 5 Library is permanently closed." The third photo, which was taken by our Committee staff, shows boxes of materials at the Headquarters Library. The final photograph shows empty shelves, again at headquarters. Those shelves, we assume, used to be full of the documents that EPA employees and independent scientists relied upon to do their work. Those photographs, as well as others taken by the Committee staff, or provided to the Committee, will also appear in the record.

[The information follows:]

Photo #1



Photo #2

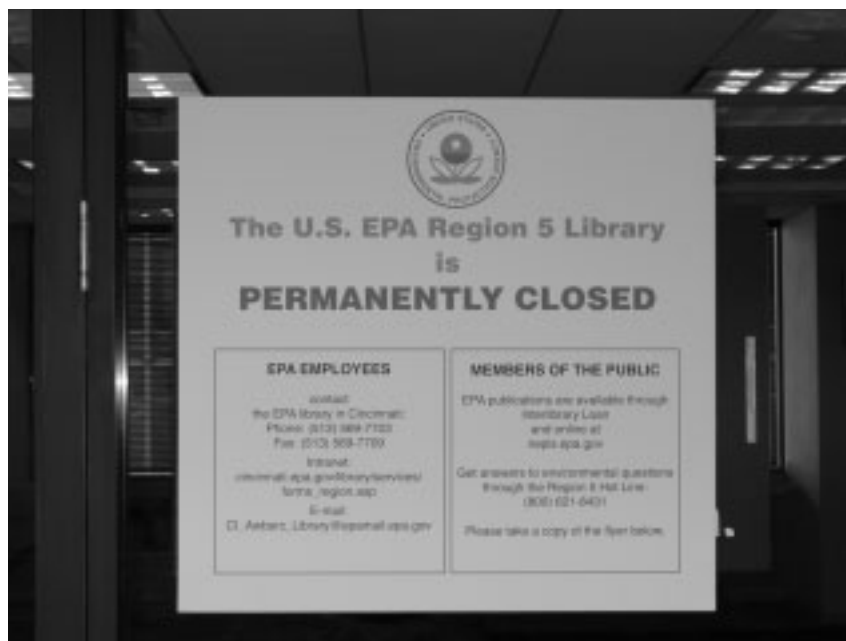


Photo #3



Photo #4

Chairman MILLER. So, with that, I want to introduce our witnesses. It is my pleasure to introduce our witnesses.

Our first witness is Mr. John Stephenson, the Director of the Natural Resources and Environment Division at the Government Accountability Office. Mr. Charles Orzechoskie is the President of the American Federation of Government Employees Council 238, AFGE. Dr. Francesca Grifo is a Senior Scientist and Director of the Science Integrity Program at the Union of Concerned Scientists. Mr. Jim Rettig is the President of the American Library Association. And our final witness is Ms. Molly O'Neill, Assistant Administrator for the Office of Environmental Information and Chief Information Officer at the Environmental Protection Agency.

Welcome to all our witnesses. You will each have five minutes for your spoken testimony, and you have, I think, all submitted written testimony, which will be included in the record of the hearing. When you all end your testimony we will begin with questions. And each Member will have five minutes to question the panel.

All right. It is my intention to keep this hearing moving at a brisk pace. It looks like the usual sources of disruption are not, will not be the problem they are sometimes, so we should be able to do that. We will almost certainly be interrupted by votes. I say we, but it may just be me. I want to encourage all of my colleagues who may be watching this on the House Internet system to get back as quickly as possible, if they intend to attend any part of the meeting, so we can continue our business as rapidly as possible.

It is our practice to take testimony under oath. This is an Investigations and Oversight Subcommittee. Do any of you have any objection to swearing an oath? Okay. You also have the right to be represented by Counsel. Is anyone here represented by Counsel at today's hearings? We ask these questions to put you at ease. Please stand and raise your right hand.

[Witnesses sworn]

Mr. Stephenson, please begin.

STATEMENT OF MR. JOHN B. STEPHENSON, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. STEPHENSON. Thank you, Mr. Chairman. I am pleased to be here today to discuss our report being released today on EPA's library restructuring.

We conducted our review, as you have already mentioned, at the request of the Full Science and Technology Committee, as well as the House Committee on Oversight and Government Reform, the House Committee on Energy and Commerce, and the Senate Committee on Environment and Public Works.

The EPA's library network provides access to critical environmental information that the Agency needs to promote environmental awareness, conduct research, enforce environmental laws, make policy decisions, and fulfill its mission of protecting human health and the environment. The library network also provides information and services to state environmental agencies, local community organizations, and the general public. Before the reorganization, the network included 26 libraries, some at the EPA head-

quarters, but most at its ten regional offices, research centers, and laboratories around the country.

In summary, as you have in your report, we found that in late 2006, the EPA embarked on an effort to restructure its library network by closing physical access to one headquarters and three regional office libraries, and reducing or changing operations at six others. In a separate move, it also closed its headquarters-based Chemical Library, containing vast information on hazardous chemicals and pesticides. Furthermore, some of the libraries began to digitize, disperse, and dispose of books, research studies, and other materials without a common set of Agency-wide guidance for doing so.

EPA's approach created the risk that not only would library services not be improved, but they may actually be degraded. While exploring ways to restructure and make library operations more efficient is always a good idea, it should not be done haphazardly. Certainly, you don't close libraries, get rid of staff, and dispose of materials first, and then figure out what to do later.

But it seems that that is exactly what happened here. EPA began restructuring its libraries without conducting several analyses that you would typically expect to see to adequately justify, plan, and implement such an important endeavor. For example, it did not fully survey EPA staff and other users to characterize their needs. It did not fully inventory its vast holdings to determine what it had and how it should be handled. It did not develop or analyze business, organizational, or technical models for improving service. It did not develop new policy and procedures to guide the library reorganization, nor did it do a basic cost-benefit analysis that OMB generally recommends for agency decisions such as this.

According to the EPA officials that decided to proceed without completing such analyses, many of which were recommended, as you mention, in its own 2004 Library Study, to create \$2 million in savings needed to contribute to the overall EPA reduction in the President's fiscal year 2007 budget proposal. Interestingly, EPA's Regional Managers usually have discretion as to how to absorb budget reductions such as this, but in fiscal year 2007, they agreed that the reduction would come from the libraries.

As of today, EPA has still not developed an effective strategy or plan to ensure the continuity of library services. EPA's 2007 plan describes library reorganization as a phased approach, but it does not provide specific goals, timelines, or feedback mechanisms to measure performance and monitor user needs to ensure a successful reorganization while maintaining quality services.

Moreover, library collections and services formerly provided by the closed libraries will now be provided on a fee for service basis by other libraries in the network, and some materials will be digitized and made available online, but EPA has yet to estimate what these activities will cost or where the funds will come from.

In conclusion, Mr. Chairman, our report contains recommendations to the EPA Administrator to continue the moratorium on further changes to the library network until the Agency: one, develops a comprehensive plan to justify and guide the implementation of its reorganization; two, institutes an outreach process to ensure that the views of all stakeholders affected by the reorganization are con-

sidered; three, creates mechanisms to ensure sufficient oversight to control the library reorganization and to monitor the impact on EPA staff and other users; and four, implements procedures to ensure library materials are appropriately handled.

EPA agreed with the recommendations in the report, but now, it needs to take the next step and implement them.

Mr. Chairman, that concludes the summary of my statement, and I will be happy to answer questions at the appropriate time. [The prepared statement of Mr. Stephenson follows:]

PREPARED STATEMENT OF JOHN B. STEPHENSON

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear here today to discuss our recent review of the reorganization of the Environmental Protection Agency's (EPA) library network, which is being released today.¹ We conducted this review at the request of the House Committees on Science and Technology, Oversight and Government Reform, and Energy and Commerce, and the Senate Committee on Environment and Public Works.

As you know, the library network provides access to critical environmental information that the agency needs to promote environmental awareness, conduct research, enforce environmental laws, make policy decisions, and fulfill its mission of protecting human health and the environment. The library network also provides information and services to State environmental agencies, local community organizations, and the general public to help these stakeholders in protecting human health and the environment. In fiscal year 2006, the network included 26 libraries across headquarters, regional offices, research centers, and laboratories, and these libraries were independently operated by several different EPA program offices, depending on the nature of the libraries' collections.

In fiscal year 2007, EPA began to reorganize its library network on the basis of a 2006 reorganization plan issued by EPA's Office of Environmental Information (OEI). This plan focused on OEI's headquarters library and libraries located in each of the agency's 10 regional offices. The plan was intended to provide a framework for consolidating libraries and making more materials and services available online.

My testimony, which is based on our report being released today on the EPA library network, addresses (1) the status of, and plans for, the library network reorganization; (2) EPA's rationale for its decision to reorganize the library network; (3) the extent to which EPA has communicated with and solicited views from EPA staff and external stakeholders in planning and implementing the reorganization; (4) the steps EPA has taken to maintain the quality of library services following the reorganization, both currently and in the future; and (5) how EPA is funding the library network and its reorganization.

To address these objectives, we reviewed relevant EPA documents, policies, plans, and guidance as well as related laws and requirements pertinent to the library network and reorganization effort. We interviewed EPA librarians and library managers from each of the 26 libraries in EPA's library network as well as EPA officials knowledgeable about EPA's library network and budget. In addition, we interviewed representatives from local unions, who represent EPA staff, and regional science councils, which is a group that consists of EPA scientists and technical specialists. We also sought information from library professionals, including representatives from the American Library Association and the Association of Research Libraries; members of academia; and private consulting companies with expertise in libraries.

We conducted this work from December 2006 through February 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

In summary, we found the following:

¹GAO, *Environmental Protection: EPA Needs to Ensure That Best Practices and Procedures Are Followed When Making Further Changes to Its Library Network*, GAO-08-304 (Washington, D.C.: Feb. 29, 2008).

- Since 2006, EPA has implemented its library reorganization plan and closed physical access to the OEI headquarters library and three regional office libraries. In the same period, six other libraries in the network independently changed their operations: one closed, four reduced their hours of operation, and one changed how it provides library services. Sixteen libraries did not change. Furthermore, some of these libraries digitized, dispersed, or disposed of their materials before EPA had drafted a common set of agency-wide library procedures for doing so. Until these procedures are completed, EPA plans no further changes to the library network. In addition to completing these procedures, the library network's future configuration and operations may depend on EPA's response to directions accompanying its fiscal year 2008 appropriation to use \$1 million to restore libraries recently closed and EPA's 2008 library plan, which describes how EPA expects to operate the library network in the future.
- EPA reorganized its library network primarily to generate cost savings through a more coordinated library network and more electronic delivery of services. However, we found that EPA did not effectively justify its reorganization decision. That is, before launching the reorganization, EPA did not conduct several analyses, including many that its own 2004 study of the libraries recommended, as well as a cost-benefit analysis that the Office of Management and Budget recommends. According to EPA officials, OEI decided to reorganize its libraries without completing the recommended analyses in order to reduce its fiscal year 2007 funding by \$2 million to create the savings necessary for its headquarters library and the regional office libraries, per the President's fiscal year 2007 budget proposal.
- EPA did not systematically inform the full range of stakeholders on the final configuration of the library network. In addition, EPA libraries varied considerably in the extent to which they communicated with and solicited views from staff, external stakeholders, and experts before and during the reorganization effort. Such efforts were limited or inconsistent because EPA acted quickly to make changes in response to a proposed fiscal year 2007 funding reduction and because of the decentralized nature of the library network. EPA is currently reaching out to stakeholders, including EPA staff and library experts, by holding and attending stakeholder meetings and conferences.
- EPA does not yet have an effective strategy to ensure the continuity of library services following the reorganization and does not know the full effect of the reorganization on library services. EPA's library plan describes the reorganization effort as a "phased approach," but it does not provide specific goals, timelines, or feedback mechanisms that allow the agency to measure performance and monitor user needs to ensure a successful reorganization while maintaining quality services. EPA did not follow key practices for a successful transformation, even though the agency made several changes to the library network that could have impaired the continued delivery of library materials and services to its staff and the public. For example, EPA did not determine whether federal property management regulations applied to the dispersal and disposal of library materials before it closed the libraries. Instead, EPA provided vague criteria and guidance to its libraries and did not adequately oversee the process.
- The several different program offices responsible for the EPA libraries in the network each generally decide how much of their available funding to allocate to their libraries and how to fund their reorganization. For example, OEI typically provides funding for the regional office libraries through each region's support budget and gives regional management discretion on how to allocate this funding among the library and other support services. However, when faced with a proposed budget reduction of \$2 million in fiscal year 2007, rather than following its normal procedures, OEI directed the regional and headquarters offices to reduce funding for OEI libraries—a reduction of 77 percent for these libraries from the previous fiscal year. EPA did not allocate funds to help closing libraries manage their collections; instead, the responsible program or regional office used its annual funding to pay for these costs. Services formerly provided by the closed libraries are now provided on a fee-for-service basis by other libraries in the network. While EPA did not track the costs associated with closing the libraries, it estimated that it spent about \$80,000 through an existing contract to digitize 15,260 titles between December 2006 and January 2007.

We recommended that the Administrator of EPA continue the agency's moratorium on changes to the library network until the agency (1) develops a strategy to justify its reorganization plans; (2) improves its outreach efforts; (3) ensures sufficient oversight and control over the reorganization process, and continuously and consistently monitors the impact of the reorganization on EPA staff and the public; and (4) implements procedures that ensure that library materials are dispersed and disposed of consistently and in accordance with federal property management regulations. EPA agreed with the recommendations made in our report.

Background

The EPA library network was established in 1971 to provide staff and the public with access to environmental information in support of EPA's mission to protect human health and the environment. The libraries differ in function, scope of collections, extent of services, and public access. Before the 2007 reorganization, the network comprised 26 libraries, each funded and managed by several different program offices at EPA: one library was managed by OEI and 10 by regional offices;² eight libraries were located at EPA laboratories within the Office of Research and Development (ORD), and two were within the Office of Administration and Resources Management (OARM). In addition, each of the following program offices had one library: Office of the Administrator, Office of General Counsel, Office of Prevention, Pesticides, and Toxic Substances (OPPTS), Office of Enforcement and Compliance Assurance, and Office of Air and Radiation. A national program manager within OEI was responsible for coordinating the major activities of the entire EPA library network.

Aside from visiting a physical location, the network provides access to its collections to its staff and to the public through (1) a Web-based database of library holdings—the Online Library System (OLS); (2) interlibrary loans from another network library or a public library; and (3) through a separate online database—the National Environmental Publications Internet Site (NEPIS). EPA staff also have access to other information sources—such as online journals, the *Federal Register*, news, databases of bibliographic information, and article citations—from their desktop computers.

EPA began to evaluate its library network in 2003. It developed and issued studies to determine the value of library services and inform regional management of their options to support library services beyond fiscal year 2006.³ EPA also issued an internal report in November 2005, which offered recommendations on how to maintain an effective library network if the library support budget were reduced. After these reports were issued, EPA established a Library Steering Committee—composed of senior managers from EPA's program offices and regions—to develop a new model for providing library services to EPA staff. In August 2006, the steering committee issued the *EPA FY 2007 Library Plan: National Framework for the Headquarters and Regional Libraries*.

The August 2006 library plan provided the framework for the network to begin reorganizing in the summer of 2006 in preparation for the proposed fiscal year 2007 budget reduction beginning in October 2006. The plan provided guidelines for EPA staff to determine how the collections would be managed; noted that OEI libraries in Regions 5, 6, and 7 would close, and that the headquarters library would close physical access to its collection but would function as a repository library, along with the OARM libraries in Cincinnati, Ohio, and Research Triangle Park, North Carolina. In addition, according to the plan, EPA is to develop Library Centers of Excellence, where a library with more expertise in a specific area of reference research would provide that service to staff in other regions.

Some Libraries Independently Decided to Close, Reduce Their Hours, or Take Other Actions, but the Final Network Configuration Is Still Uncertain

As a part of EPA's 2006 reorganization effort, some EPA libraries have closed, reduced their hours of operation, or changed the way that they provide library services. Furthermore, some of these libraries have digitized, dispersed, or disposed of their materials. The future of EPA's library network—its configuration and its operations—are contingent on final policies and procedures, on EPA's response to direc-

² OEI primarily funds these regional office libraries.

³ U.S. Environmental Protection Agency, Office of Environmental Information, *Business Case for Information Services: EPA's Regional Libraries and Centers*, EPA 260-R-04-001 (January 2004); and *Optional Approaches to U.S. EPA Regional Library Support*, EPA 260-R-05-002 (June 2005).

tions accompanying its fiscal year 2008 appropriation, and on EPA's 2008 library plan.

Owing to the decentralized nature of the EPA library network, each library decided on its own whether to change its operations. Table 1 shows the operating status of each library in the EPA library network.

Table 1: Operating Status of Each Library in the EPA Library Network

Program office	Library/location	Operating status of library
Office of Environmental Information	Headquarters Library/Washington, DC	Closed physical access Serves as a repository library
Regional Office	Region 1 Library/Boston, MA	Reduced hours of operation
	Region 2 Library/New York City, NY	Reduced hours of operation ¹
	Region 3 Library/Philadelphia, PA	Open ²
	Region 4 Library/Atlanta, GA	Open Changed the way that library services are provided
	Region 5 Library/Chicago, IL	Closed physical access ³
	Region 6 Library/Dallas, TX	Closed physical access ⁴
	Region 7 Library/Kansas City, KS	Closed physical access ⁵
	Region 8 Library/ Denver, CO	Open
	Region 9 Library/San Francisco, CA	Reduced hours of operation
	Region 10 Library/Seattle, WA	Reduced hours of operation
Office of Prevention, Pesticides, and Toxic Substances	Chemical Library/Washington, DC	Closed physical access ⁶
Office of Administration and Resources Management	Andrew Breidenbach Environmental Research Center/Cincinnati, OH	Open Serves as a repository library
	Research Triangle Park Library Service/Research Triangle Park, NC	Open Serves as a repository library
Office of Enforcement and Compliance Assurance	National Enforcement Investigations Center Environmental Forensics Library/Denver, CO	Open
Office of Research and Development	Environmental Sciences Division Technical Research Center/Las Vegas, NV	Open
	Ecosystem Research Division Library/Athens, GA	Open
	Atlantic Ecology Division Library/Narragansett, RI	Open
	Gulf Ecology Division Library/Gulf Breeze, FL	Open
	Mid-continent Ecology Division Library/Duluth, MN	Open
	Western Ecology Division Library/Corvallis, OR	Open
	Ground Water and Ecosystems Restoration Division Library/Ada, OK	Open
	Atmospheric Sciences Modeling Division Library/ Research Triangle Park, NC	Open ⁷
Office of the Administrator	Legislative Reference Library/Washington, DC	Open
Office of General Counsel	Law Library/Washington, DC	Open
Office of Air and Radiation	National Vehicle and Fuel Emissions Laboratory Library/Ann Arbor, MI	Open

Source: GAO analysis of EPA data.

^aA library located at an Edison, New Jersey, laboratory in Region 2 closed in September 2004. This library closure preceded the closures associated with the fiscal year 2007 library network reorganization. Although this library was managed separately and independently from the Region 2 library, the materials from this library were transferred to the main Region 2 library in New York, New York, when the library closed. Librarians from the main library in Region 2 now provide library services to Edison, New Jersey, staff.

^bThe lone librarian in Region 3's satellite library in Ft. Meade, Maryland, resigned in February 2006. The Ft. Meade library's collection remains in place and is open for EPA staff use, although no staff manage the collection. Librarians from the main library in Region 3, located in Philadelphia, Pennsylvania, now provide library services to Ft. Meade staff. According to EPA officials, the Ft. Meade library was closed to the public because the library did not receive many visits from the public, and because the library was located at a high-security military base.

^cThe libraries in Regions 5 and 6 and the Chemical Library reduced their hours of operation for a period of time prior to closing.

^dThe libraries in Regions 6 and 7, although closed to physical access, still contain library materials on shelves because of the moratorium on further changes to the network that was placed in January 2007. According to EPA officials, materials from the Regions 6 and 7 libraries are not accessible to walk-in traffic but remain accessible through interlibrary loan.

^eThe Atmospheric Sciences Modeling Division library was funded by the National Oceanic and Atmospheric Administration but run jointly by the Office of Research and Development through an interagency agreement. The library materials for this library are located at Research Triangle Park, NC, and managed by OARM library staff. In fiscal year 2008, the library was not funded and will be consolidated into the OARM Research Triangle Park library once the moratorium is lifted, according to EPA officials.

While EPA's August 2006 library plan noted that three regional libraries—Regions 5, 6, and 7—and the headquarters library would close physical access to their libraries, it did not reflect other changes that occurred, as shown in Table 1. According to EPA officials, the plan focused on the OEI headquarters and regional office libraries, and they did not think it was necessary to reflect all changes that were planned for other libraries. The focus of the plan, according to EPA officials, was to set the framework on how library services would be provided electronically and not on what physical changes were to occur.

Although no longer accessible to walk-in traffic from EPA staff and the public, the closed regional and headquarters libraries continue to provide library services, such as interlibrary loans and research/reference requests, to EPA staff through service agreements that the closed libraries established with libraries managed by OARM or with the Region 3 library located in Philadelphia, Pennsylvania.⁴

As part of the library reorganization, each library in the network that was planning to close access to walk-in services independently decided which materials would be retained at their library or be selected for digitization, dispersal to EPA or non-EPA libraries, or disposal. Table 2 shows the actions taken by the closed libraries.

⁴ OARM libraries are located in Cincinnati, Ohio and in Research Triangle Park, North Carolina. The OARM libraries and the Region 3 library have been designated as Centers of Excellence for the EPA library network, meaning that these libraries have staff qualified to conduct research in specific areas, have access to tools to support services, and have the ability to handle increased workload. According to EPA officials, the OARM libraries serve as Centers of Excellence for core library services, such as research requests and interlibrary loans, and the Region 3 library serves as a Center of Excellence for business research issues.

Table 2: Current Status of Materials at Closed Libraries

Program office	Library	Digitized ^a	Dispersed to EPA or non-EPA libraries	Disposed
Office of Environmental Information	Headquarters	X	X	X
Regional Office	Region 5	X	X	
	Region 6	X	X	
	Region 7	X		
Office of Prevention, Pesticides, and Toxic Substances	Chemical Library	^b	X	X

Source: GAO analysis of EPA data.

^aIn addition to the closed libraries, libraries in Regions 2 and 3, and the Atmospheric Sciences Modeling Division library in Research Triangle Park, North Carolina, also digitized materials.

^bThe OPPTS Chemical Library has developed a list of materials to be digitized but has not yet digitized any materials because of the moratorium on further changes to the library network, and because EPA's digitization procedures are undergoing third-party review. While these materials sit in boxes in the headquarters repository library and the OPPTS Chemical Library, EPA officials told us the materials can be identified and retrieved if a request arises.

In terms of digitization, the criteria in the August 2006 library plan noted that unique EPA materials—which, according to EPA officials, refers to materials created by or for EPA—that are not already electronically available in NEPIS would be digitized and made available in NEPIS. At the time of our review, 15,260 titles had been digitized, and EPA anticipates that a total of about 51,000 unique EPA library materials from closed and open libraries will be digitized.

In terms of dispersal, EPA's library plan noted that a library choosing to disperse its materials can send materials to one of the EPA-designated repositories, other libraries in the library network, EPA regional record management centers, other federal agency libraries, state libraries and state environmental agency libraries, colleges and university libraries, public libraries, or e-mail networks used specifically to exchange library materials.

Finally, in terms of disposal, the OEI headquarters library and the OPPTS Chemical Library disposed of some of their materials as a part of the reorganization. EPA's library plan noted that certain materials not claimed during the dispersal process could be destroyed. In total, the OEI headquarters library has disposed of over 800 journals and books, and the Chemical Library has disposed of over 3,000 journals and books.

Recognizing that libraries could function more cohesively as a network, EPA established a new interim library policy in 2007 and established uniform governance and management for the network. This interim policy, among other things, (1) re-established the National Library Program Manager position, which was left vacant from 2005 through 2007 and (2) resulted in 12 draft agency-wide library procedures, including procedures on digitizing and dispersing library materials, and developing a communication strategy. EPA officials told us that they do not have a time frame for completing these procedures but will complete them before the moratorium on changes to the network is lifted. The January 2007 moratorium was imposed in response to congressional and other concerns, and extended indefinitely in February 2007.

The future of the library network, its configuration, and its operations are contingent on the completion of the final policies and procedures, on EPA's response to directions accompanying its fiscal year 2008 appropriation,⁵ and on EPA's 2008 library plan. In an explanatory statement accompanying the fiscal year 2008 *Consolidated Appropriations Act*, \$1 million was allocated to restore the network of EPA libraries that were recently closed or consolidated. The explanatory statement also directed EPA to submit a plan to the Committees on Appropriations within 90 days

⁵Pub. L. No. 110–161.

of enactment regarding actions it will take to restore the network. Separately, EPA officials told us that they are developing a Library Strategic Plan for 2008 and Beyond, which details EPA's library services for staff and the public and a vision for the future of the library network.

EPA Did Not Effectively Justify Its Decision to Reorganize Its Library Network

EPA reorganized its library network primarily to save costs by creating a more coordinated library network and increasing the electronic delivery of library services. However, EPA did not fully complete several analyses, including many that its 2004 study recommended. In addition, EPA's decision to reorganize its library network was not based on a thorough analyses of the costs and benefits associated with such a reorganization.

EPA initiated its 2004 *Business Case* study because of ongoing budget uncertainties and because of technological changes in how users obtain information and how commercial information resources are made available. While the study concluded that EPA's libraries provide "substantial value" to the agency and the public, it raised concerns about EPA's ability to continue services in its present form. As such, the study recommended that EPA take several actions to foster an agency-wide discussion on the library network's future. In addition, according to Office of Management and Budget guidance, a benefit-cost analysis should be conducted to support decisions to initiate, renew, or expand programs or projects, and that in conducting such an analysis, tangible and intangible benefits and costs should be identified, assessed, and reported.⁶ One element of this analysis is an evaluation of alternatives to consider different methods of providing services to achieve program objectives.

However, EPA did not fully complete these assessments before it closed libraries and began to reorganize the network. According to EPA officials, EPA decided to reorganize its libraries without fully completing the recommended analyses in order to reduce its fiscal year 2007 funding for the OEI headquarters and regional office libraries by \$2 million. This claimed savings, however, was not substantiated by any formal EPA cost assessment. According to EPA officials, the \$2 million funding reduction was informally estimated in 2005 with the expectation that EPA would have been further along in its library reorganization before fiscal year 2007. Furthermore, EPA did not comprehensively assess library network spending in advance of the \$2 million estimation of budget cuts.

By not completing a full assessment of its library resources and not conducting a benefit-cost analysis of various approaches to reorganizing the network, EPA did not justify the reorganization actions in a way that fully considered and ensured adequate support for the mission of the library network, the continuity of services provided to EPA staff and the public, the availability of EPA materials to a wider audience, and the potential cost savings. In effect, EPA attempted to achieve cost savings without (1) first determining whether potential savings were available and (2) performing the steps that its own study specified as necessary before moving forward.

EPA Did Not Fully Inform or Solicit Views from the Full Range of Stakeholders on the Reorganization But Is Now Increasing Its Outreach Efforts

Communicating with and soliciting views from staff and other stakeholders are key components of successful mergers and transformations.⁷ We have found that an organization's transformation or merger is strengthened when it (1) makes public implementation goals and a timeline; (2) establishes an agency-wide communication strategy and involves staff to obtain their ideas, which among other things, involves communicating early and often to build trust, ensuring consistency of message, and incorporating staff feedback into new policies and procedures; and (3) adopts leading practices, such as those for library services, to build a world-class organization. While EPA did not fully take these actions during the library reorganization, it is now reaching out to both EPA staff and external stakeholders.

EPA's August 2006 library plan did not inform stakeholders on the final configuration for the library network or implementation goals and a timeline. Through the library plan, EPA generally informed internal and external stakeholders of its vision

⁶ Office of Management and Budget, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs*, OMB Circular A-94 (Washington, D.C.: Oct. 29, 1992).

⁷ GAO, *Results-Oriented Cultures: Implementing Steps to Assist Mergers and Organizational Transformations*, GAO-03-669 (Washington, D.C.: July 2, 2003). This report identified nine key practices and related implementation steps that have led to successful mergers and transformations in large private and public sector organizations.

for the reorganized library network, noting that EPA would be moving toward a new model of providing library services to EPA staff and the public. However, EPA did not provide enough information on how the final library network would be configured or the implementation goals and timeline it would take to achieve this configuration. For example, EPA did not inform its staff or the public that OPPTS would close its Chemical Library and that other libraries would reduce their hours of operation or make other changes to their library services. According to OEI officials, the plan was intended to provide a framework for how new services would be provided and not to lay out the network's physical configuration. Without a clear picture of what EPA intends to achieve with the library network reorganization and the implementation goals and timeline to achieve this intended outcome, EPA staff may not know if progress is being made, which could limit support for the network reorganization.

Because EPA's library structure was decentralized, EPA did not have an agency-wide communication strategy to inform EPA staff of, and solicit their views on, the changes occurring in the library network, leaving that responsibility to each EPA library. As a result, EPA libraries varied considerably in the information they provided to staff on library changes.

For example, management in only a few of the regions solicited views from their regional staff through discussions with their regional science councils—an employee group located in each region composed of EPA scientists and technical specialists—or unions.⁸ In addition, EPA generally did not communicate with and solicit views from external stakeholders before and during the reorganization because it was moving quickly to make changes in response to proposed funding cuts. Of the libraries that closed, only the headquarters library informed the public of the changes occurring at its library by posting a notification in the *Federal Register*.⁹ EPA also did not fully communicate with and solicit views from professional library associations while planning and implementing its library reorganization. EPA did meet with the American Library Association, a professional library association, on a few occasions, but did so later in the reorganization planning process. Without an agency-wide communication strategy, staff ownership for the changes may be limited, and staff may be confused about the changes. Furthermore, EPA cannot be sure that the changes are meeting the needs of EPA staff and external stakeholders.

Finally, EPA did not solicit views from federal and industry experts regarding the digitization of library materials and other issues. These experts could have provided leading practice information and guidance on digitization processes and standards for library materials. As such, EPA cannot be sure that it is using leading practices for library services.

Recognizing the need to communicate with and solicit the views of staff, external stakeholders, and industry experts, EPA recently increased its outreach efforts. For example, EPA asked local unions to comment on a draft of the 2008 library plan, and attended and presented information at a stakeholder forum at which a number of professional library associations were present. Furthermore, OEI started working with the Federal Library Information Center Committee, a committee managed by the Library of Congress, to develop a board of advisers that will respond to EPA administrators and librarians' questions about the future direction of EPA libraries.

EPA Lacks a Strategy to Ensure Continuity of Library Services and Does Not Know Whether Its Actions Have Impaired Access to Environmental Information

EPA does not yet have a strategy to ensure that library services will continue and does not know the full effect of the reorganization on library services. However, several changes it has made may have limited access to library materials and services. According to our review of key practices and implementation steps to assist mergers and organizational transformations, organizations that are undergoing change should seek and monitor staff attitudes and take the appropriate follow-up actions. While EPA's library plan describes the reorganization effort as a "phased approach,"

⁸ In September 2007, the national EPA union held arbitration talks with EPA. The EPA union won its unfair labor practice claim against the agency. More specifically, the Federal Labor Relations Authority administrative law judge ruled that EPA violated federal labor law by failing to enter arbitration with the union regarding its grievance about the library restructuring. *U.S. Environmental Protection Agency v. American Federation of Government Employees*. The ruling also required the agency to post signs notifying employees that EPA had violated labor law. On February 15, 2008, an arbitrator found that EPA had violated provisions of the Master Collective Bargaining Agreement by not engaging the union in impact and implementation bargaining pertaining to the reorganization of its library network. *EPA v. American Federation of Government Employees Council 238*, FMCS Case No. 07-50725 (George Edward Lamey, Arbitrator).

⁹ 71 Fed. Reg. 54,986 (Sept. 20, 2006).

it does not provide specific goals, timelines, or feedback mechanisms so that the agency can measure performance and monitor user needs to ensure a successful reorganization while maintaining quality services. In addition, to balance the continued delivery of services with merger and transformation activities, it is essential that top leadership drives the transformation. However, during the reorganization, EPA did not have a national program manager for the library network to oversee and guide the reorganization effort.

Several changes that EPA made to its library network may have impaired the continued delivery of library materials and services. For example, because of copyright issues, only unique reports produced by or for EPA will be digitized in NEPIS—only about 10 percent of EPA's holdings of books and reports. If the material is not available electronically, EPA staff in locations where libraries have closed will receive the material through an interlibrary loan—delaying access to the materials from one day to up to 20 days. EPA also does not have a plan to ensure the continuation of library services for the public, such as State and local government environmental agencies, environmental groups, and other nongovernmental organizations.

Furthermore, EPA may have inadvertently limited access to information because it did not determine whether federal property management regulations applied to the dispersal and disposal of library materials and hence may have disposed of materials that should have been retained. For example, the Regions 5 and 6 libraries gave materials to private companies, and the OEI headquarters library and the Chemical Library discarded materials without first determining that they had no monetary value. EPA officials stated that it was unclear whether library materials, such as books and journals, were subject to federal property management regulations. EPA officials stated that they will engage federal property management officials at GSA regarding what steps should be taken in the future.

EPA Program Offices Are Responsible for Funding Their Libraries and Their Reorganization Through Their Support Budgets

The program offices responsible for the EPA libraries in the network generally decide how much of their available funding to allocate to their libraries out of larger accounts that support multiple activities. Until fiscal year 2007, library spending had remained relatively stable, ranging from about \$7.14 million to \$7.85 million between fiscal years 2002 and 2006.¹⁰ OEI, which is the primary source of funding for the regional libraries, typically provides funding for them through each region's support budget, and generally allows regional management to decide how to allocate this funding among the library and other support services, such as information technology. For fiscal year 2007, OEI management decided to reduce funding for the OEI headquarters and regional office libraries by \$2 million, from \$2.6 million in enacted funding for fiscal year 2006—a 77 percent reduction for these libraries and a 28 percent reduction in total library funding. After \$500,000 of the \$2 million reduction was applied to the headquarters library, the regional administrators together decided that the remaining \$1.5 million reduction should be spread equally across all regions, rather than by staffing ratios in each region or previous years' spending. The \$2 million reduction for the libraries was included in the President's fiscal year 2007 budget proposal for EPA. However, like most agencies, EPA was included in the full-year continuing resolution, which held appropriations near fiscal year 2006 levels. The continuing resolution was enacted after EPA began reorganizing the library network. According to EPA, OEI restored \$500,000 to the library budget in fiscal year 2007 to support reorganization activities.

When planning the reorganization, EPA recognized that the responsible dispersal, disposal, and digitization of an EPA library collection is a major project requiring planning, time, and resources. However, EPA did not allocate funds specifically to help the closing libraries manage their collections. According to EPA, the funding for library closures was taken into account during the budget process. As a result, the program or regional office responsible for the library used its usual library funding available at the end of fiscal year 2006 to pay for closing costs.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you and Members of the Subcommittee may have.

¹⁰ These figures are based on estimates from EPA. We did not independently determine their accuracy. Because EPA does not track library funding, each library in the network provided estimates that were based on past spending and enacted funding. However, libraries may have varied in the type of spending data provided in terms of whether the data included contract costs, salaries, and acquisitions.

BIOGRAPHY FOR JOHN B. STEPHENSON

Mr. Stephenson is currently the Director of Natural Resource and Environment issues for the U.S. Government Accountability Office—the independent investigative arm of the Congress. In that capacity, he has for the past eight years directed numerous studies and research projects, issued hundreds of reports, and testified on many occasions before several Senate and House Committees. His work has provided invaluable assistance to the Congress in its oversight and legislative role on diverse environmental protection issues such as clean air, clean water, safe drinking water, chemical controls, toxic substances, climate change, superfund, and hazardous materials spill prevention and cleanup, as well as critical infrastructure protection.

He began his career in GAO's Cincinnati Field Office, and transferred to GAO's Washington D.C. headquarters office in 1987 where he worked on a variety of information technology and national and international security issues. From April 1998–February 2000, he was Deputy Staff Director for the Senate Special Committee on the Year 2000 Technology Problem for the Chairman (Senator Robert Bennett, R-UT), and Vice Chairman (Senator Christopher Dodd, D-CT). In that capacity, he ran the day-to-day operations of the Committee including orchestrating over 35 hearings, preparing legislation, organizing briefings and floor activities for the full Senate, working with the White House's Year 2000 Director and staff, and organizing numerous press and public events. He returned to GAO in March 2000 where he was executive assistant to the U.S. Comptroller General (the head of GAO) until entering the Senior Executive Service in October 2000.

Mr. Stephenson holds a BS degree in Industrial Management from Purdue University, an MBA from Xavier University, and is a graduate of the Harvard Kennedy School of Government's Senior Executive Fellows program. He lives in Fairfax Station, Virginia with his wife, his 11-year-old daughter, and his 9-year-old son.

Chairman MILLER. Thank you, Mr. Stephenson. Mr. Orzechoskie.

STATEMENT OF MR. CHARLES ORZEHOSKIE, PRESIDENT, NATIONAL COUNCIL OF EPA LOCALS #238, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. ORZEHOSKIE. Good morning. I would like to thank Chairman Miller, Congressman Sensenbrenner, and Members of the Subcommittee on Investigations and Oversight for this opportunity to appear before you today.

My name is Charles Orzechoskie. I am President, AFGE Council 238, and I have worked for EPA for over 37 years, more than 20 of those years as a supervisor. I hold an engineering degree from Illinois Institute of Technology, and a law degree from DePaul University in Chicago. Our organization, AFGE Council 238, represents almost 9,000 employees of EPA, and 11 locals throughout the country, and we strive to improve the working conditions and agency efficiency.

For EPA to carry out our mission requires a deep understanding of environmental science that EPA engineers and scientists have historically utilized the EPA libraries and library staff to assist them in that effort. Sadly, EPA library services are no longer available to staff or to the general public at two headquarters libraries and three regional offices.

Yet, on February 6 of 2007, EPA Administrator Stephen L. Johnson testified before the Senate Environmental and Public Works Committee, stating: "We discontinued walk-in service at five of our 26 libraries, and reduced the hours of operation at other libraries. However, the services provided remain unchanged."

Council 238 does not understand Administrator Johnson's statement. For example, he must not have visited Chicago recently, because the space where the library was located is vacant. Even the furniture has been sold. How have the services provided remained

unchanged, particularly for any person who does not receive EPA messages explaining the new library procedures?

Administrator Johnson further testified, "EPA saw a decline in the walk-in traffic at many of our libraries," implying the public's demand for information had decreased. The decline in walk-in traffic may be due, in part, to increased security measures at federal buildings since 9/11, and EPA budget reductions in public outreach programs, but the public's interest in environmental issues remains strong.

At the same hearing, Leslie Burger, President of the American Library Association, testified: "Is the EPA library plan based on end-users' needs? Apparently not." The Council tried to work with the EPA on this issue, but we were stonewalled. Management was apparently not interested in the Agency's engineers and scientists had to say about EPA libraries. Unfortunately, so many of this Administrator's decisions appear to be based on the President's Management Agenda, PMA, and not on the mandate of Congress, the will of the American people, or what would be best for accomplishing EPA's mission.

We have many concerns about closing libraries. Let me just summarize that common sense suggests that to make sound scientific decisions, data and information are at the heart of a good process, and closing libraries at this time appears to work counter to that objective. We have been told that the libraries were closed to save the government money, yet this doesn't make sense. EPA's own Office of Environmental Information did a cost-benefit analysis in 2004, which estimated that EPA's library network saved Agency professional staff 214,000 hours, a cost saving of approximately \$7.5 million. The benefit-to-cost ratio was conservatively estimated at 4.4 to one.

EPA management has stated that closing the libraries was also an act of modernization. Hopefully, at some time in the future, we will see positive results of modernization. However, wouldn't it have made sense to have piloted the project, tested how well digitization worked, and only then considered whether there was a need for redundancy of hardcopy? More should have been done before declaring "Mission Accomplished," turning off the lights, locking the doors, and tossing out documents.

When AFGE Council 238 first raised the issue of libraries, EPA rebuffed the Council, saying the Union's request for input was premature. In March of 2006, after EPA Region 5 announced the regional library would close, we issued a demand to bargain over the libraries, thinking the issue was now ripe for negotiations. However, management again refused to bargain, and instead, went ahead and dismantled EPA libraries.

On August 16, 2006, Council 238 filed a grievance against EPA for failure to negotiate. Filed by Council 238 invoking arbitration over the grievance after the Agency declined to settle. Still, the Agency refused to bargain. On February 5, 2007, we filed with the Federal Labor Relations Authority (FLRA) for the Agency's failure to pick an arbitrator.

FLRA Judge Pearson ordered the Agency "to cease and desist from failing or refusing to proceed to arbitration, or interfering with its employees in their rights to exercise their rights assured

by the Federal Service Labor Management Relations statute.” Then, on September 25, 2007, an arbitration was heard, and Arbitrator George E. Larney’s opinion was issued last month. The opinion found that the Agency had violated applicable provisions of the union contract when it acted to forestall and preclude engaging the Council in bargaining. The Arbitrator ruled to sustain the grievance and order the Agency to engage the Council in bargaining.

Arbitrator Larney stated in his finding: “The evidence reveals that the Agency stonewalled the Union with regard to negotiations, let alone allowing the Union a real and viable role in the library reorganization process.” Arbitrator Larney went on to state: “If the Agency’s conduct was not bad enough, the Agency compounded the error of its ways by closing libraries unilaterally without the benefit of legitimate Union input.”

EPA’s report to Congress on reopening the libraries is due later this month. Yet EPA, even after Larney’s ruling, has failed to meet with the Council to negotiate any aspect of the library closing. This type of behavior, where EPA ignores the rights of its employees, must stop.

In conclusion, the EPA should depend on impartial research and science to make informed decisions, and a first class EPA library can help with those decisions. Council 238 would like to see the libraries reopened and restored by the end of this fiscal year, and we thank Congress for providing \$1 million in the fiscal year 2008 budget to reopen the libraries.

However, we are concerned that the funding may be insufficient to get all of the libraries open, and there was no funding to hire research librarians, a critical aspect of any library, let alone a state of the art environmental library.

Finally, in almost four decades of working for EPA, I have never experienced such an unprecedented level of political consideration in the performance of EPA’s missions. This political influence threatens the integrity of EPA engineers and scientists, and undermines the very mission of the Agency, and must stop.

Thank you again for the opportunity to speak on behalf of AFGE Council 238 and its almost 9,000 engineers, scientists, and staff, which we represent.

I am happy to take any questions from the Committee.
[The prepared statement of Mr. Orzechoskie follows:]

PREPARED STATEMENT OF CHARLES ORZEHOSKIE

Good morning, Chairman Miller, Congressman Sensenbrenner and Members of the Subcommittee on Investigations and Oversight. I thank you for this opportunity to appear before you today to present AFGE Council 238’s views about the closure of EPA’s libraries.

INTRODUCTION

My name is Charles Orzechoskie. I am President of the National Council of EPA Locals# 238 of the American Federation of Government Employees (AFGE). I have worked for EPA for over 37 years as a professional engineer in the construction grants program, facilities planning, and 208 plans under the Clean Water Act, and served as Chief of EPA Region 5’s Wetlands Enforcement Program. Over 20 years of my EPA service has been as a supervisor, including two years on an Interagency Personnel Agreement to the Indiana Department of Environment Management as Chief of their Facilities Development Branch. I am a Licensed Attorney in the State of Illinois, and have been a Registered Professional Engineer in the States of Indiana and Illinois. Additionally, I served two terms as the Vice President of the Illi-

nois Society of Professional Engineers, and have been a member of both the American Bar Association and the Chicago Bar Association.

AFGE COUNCIL 238

AFGE Council 238 represents almost 9,000 employees of the Environmental Protection Agency (EPA) who are first and foremost, committed to the protection of human health and the environment, and ensuring that our nation's environmental acts, laws and regulations are carried out. AFGE Council 238's mission is to strive to improve workplace conditions so that EPA employees have the opportunity, support and tools needed to accomplish EPA's mission and advance in their chosen field and respective careers.

AFGE Council 238 does this as our employees' exclusive legal representative in national labor negotiations, and works to obtain agreements which provide our members with a supportive work environment and improved opportunities to work more effectively and efficiently for the protection of human health and the environment.

EPA'S MISSION AND WHY LIBRARIES ARE IMPORTANT

EPA's mission is to protect human health and the environment. To carry out that mission requires a deep understanding of environmental science and technology. EPA engineers, risk assessors, and scientists rely heavily on EPA technical information and have over the years utilized EPA libraries to perform their jobs in an effective and efficient manner. EPA library staff provide Agency professionals with the latest research on cutting-edge environmental, homeland security and public health issues.

In addition, EPA libraries conduct business searches for EPA inspectors, investigators, and enforcement officers, providing a host of other resources that cannot be found with a standard Internet search. EPA technical library staff provide vital support services that allow EPA employees to spend more time conducting inspections, writing public health and environmental policies and reports, and enforcing and implementing EPA regulations.

EPA LIBRARY CLOSURES

Sadly, EPA library services are no longer available to EPA staff or the general public at two EPA Headquarters libraries and three Regional libraries (Region 5 in Chicago, Region 6 in Dallas, and Region 7 in Kansas City)—which serve 15 states. EPA libraries in Regions 1 (Boston), 2 (New York), 9 (San Francisco), and 10 (Seattle) have reduced hours. The closure of EPA Headquarters' Office of Prevention, Pesticides and Toxic Substances (OPPTS) library was a particularly severe loss to the public, research institutes, as well as EPA engineers, risk assessors, and scientists.

CLOSURE OF OPPTS HEADQUARTERS LIBRARY

The EPA Headquarters OPPTS Chemical Library was shut down on October 20, 2006. It provided research services to EPA scientists who review industry requests for the introduction of new chemicals into the environment. Among other holdings, the library contained unique toxicological studies on the potential effects of pesticides on children, up-to-date research on genetically engineered chemicals and other biotech products, and extensive literature on emergency planning and chemical risk assessments.

EPA scientists often begin their reviews by looking at the effects of similar chemicals or analogues—a technique hampered by closing the library housing research on chemicals and their effects. Headquarters EPA scientists now have fewer resources to conduct thorough analyses on hundreds of new chemicals for which companies are clamoring for "EPA approval."

When it was closed, the OPPTS library's valuable, paper-only collection was moved into boxes, and stored in a Headquarters basement cafeteria. EPA made no public announcement concerning its dismantling of the OPPTS Library, nor was it mentioned in the "EPA FY 2007 Framework" as one of the several libraries slated to be shuttered. It is a travesty that EPA closed this all important library critical to the Agency's mission and the general public.

We concur with Leslie Burger, President of the American Library Association and Director of the Princeton Library, when she testified before the Senate Environment and Public Works Committee on February 6, 2007, *"In an age of global warming and heightened public awareness about the environment, it seems ironic that the Administration would choose this time to limit access to years of research about the environment."*

WHY PUBLIC ACCESS TO EPA LIBRARIES IS CRUCIAL

Public access to EPA libraries is crucial because without it, organizations such as the Lake Michigan Federation may never have come into existence. While raising four children in Chicago's Hyde Park neighborhood in the 1950s and 1960s, Lee Botts became involved as a volunteer in several local issues leading up to taking a leadership role in the campaign which in 1966 resulted in the creation of the Federal Indiana Dunes National Lakeshore. In 1971, Ms. Botts founded the Lake Michigan Federation. The Lake Michigan Federation was the first independent citizens' organization dedicated to the protection and preservation of a specific Great Lake. Part of the reason for Ms. Botts' success was her frequent visits to the EPA Region 5 library in Chicago. Today, the Lake Michigan Federation is known as the Alliance for the Great Lakes, and has been instrumental in the effort to restore the sixth largest lake in the world. EPA Region 5's library is now closed, so I am concerned for the new Lee Botts of this country who may not have access to a world-class environmental library.

IMPACT OF EPA LIBRARY CLOSURES ON STAFF

On February 6, 2007, EPA Administrator Stephen L. Johnson testified before the Senate Committee on Environment and Public Works, stating in part, "*We discontinued walk-in services at five of our 26 libraries and reduced the hours of operations at some other libraries. However, the services provided remain unchanged.*" AFGE Council 238 does not understand Administrator Johnson's statement based upon the fact that there are no libraries in Region 5 (Chicago), Region 6 (Dallas), and Region 7 (Kansas City) or at EPA Headquarters, particularly the OPPTS library. In Chicago, the space is vacant; even the furniture has been sold. How have "*...the services provided remain unchanged.*"?

We surveyed some of our bargaining unit and they indicated adverse impacts due to the closure of the EPA Library in their location. High on the list of concerns and complaints was the loss of quick and direct access by EPA Ecologists, Environmental Engineers, Environmental Health Scientists, Environmental Scientists, Risk Assessors, and Toxicologists, among others, to EPA studies, reports, and reference materials. Many of our top engineers, risk assessors and scientists find themselves either purchasing their own expensive reference texts, or spending time in university libraries that might otherwise be better spent if we had our libraries back.

High on the list of concerns in Chicago was the loss of the specialized reference materials for the Great Lakes National Program Office. Yet on February 6, 2007, EPA Administrator Johnson testified that, "*Let me also assure you that unique EPA material has been retained, catalogued, and is available to EPA and the public.*" Our bargaining unit employees tell us they cannot access some of these materials. Does EPA management know where all of the Great Lakes National Program Office material is? Can they assure us that ALL of the "*...unique EPA material has been retained, catalogued, and is available to EPA and the public?*"

Administrator Johnson also testified on February 6, 2007, "*EPA saw a decline in the walk-in traffic at many of our libraries,*" implying that the public's demand for information had decreased. EPA libraries were used as repositories for information on Superfund Sites, among other things, which the general public has now lost access to in at least four major metropolitan areas (Chicago, Dallas, Kansas City and Washington, DC). The decline in walk-in traffic may be due in part to increased security measures at federal buildings since 9-11. We also believe that EPA budget reductions in public outreach programs have contributed to a decline in walk-in traffic. However, I do believe that the general public's interest in environmental issues is still strong. I am left with the question as to whether or not EPA wants walk-in traffic and a public engaged in environmental decision-making. If the Agency really wanted to find out what the public wanted or needed from EPA libraries, it should have publicly noticed its proposed changes to library services AND held information sessions in the locations where the libraries were either going to be closed or the hours reduced.

EPA employees have already experienced significant decreases in the support necessary to maintain their ability to work effectively and efficiently due to decreases in travel and training dollars. Now with the decreases in networking support EPA libraries offered, their ability to perform their jobs has been further diminished. The loss of institutional memory, as well as the loss of expertise from professional librarians in the Regions, hampers the scientific decision-making process. The current Administrator maintains that he wants decisions that are scientifically based, yet the ability of EPA staff to accomplish sound science continues to be impaired. Is the real goal to have even more of the technical assistance and evaluations contracted out at higher cost to the taxpayer?

How much money can EPA possibly save by taking away reasonable access to newswires and reports that inform Agency technical staff of so many issues that impact EPA's mission, in a condensed and summarized form? The idea of taking away EPA staffs' easy access to important environmental journals is appalling. Certainly, it can be said that EPA's library plan was not based on an assessment of the end-users needs. On February 6, 2007, Leslie Burger testified, "*Is EPA's library plan based on the end-users' needs? Apparently not. . . ALA doesn't see what's being done as connected to users' needs in any way.*" AFGE Council 238 agrees with Ms. Burger's testimony.

The Council tried to work with EPA management but was stonewalled. Management was apparently not interested in what the Agency engineers, risk assessors, and scientists had to say about EPA libraries. The Administration's action in shuttering EPA Libraries appears penny wise, pound foolish and a step backwards in protecting the environment. Unfortunately, so many of the Administrator's decisions appear to be based on the President's Management Agenda, and not on the mandates of Congress, the will of the American people or what would be in the best interest of accomplishing EPA's mission.

AFGE COUNCIL 238 IS CONCERNED:

- Because the \$2 million budget cut for EPA libraries was proposed by the President and the Office of Management and Budget, but carried out *without Congressional approval* by EPA management. AFGE Council 238 believes that the EPA library closures reduces the effectiveness of EPA, and continues to demoralize its employees.
- About the sudden, draconian manner, in which EPA libraries were closed, with little regard to protection of unique collections of technical reports and documents, such as the Great Lakes collection. We consider it one more example of suppressing information on environmental and public health-related topics.
- Because we consider the EPA library closures to be an "environmental justice" (EJ) issue. At least four major metropolitan areas have lost EPA libraries—Chicago (Region 5), Dallas (Region 6), Kansas City (Region 7), and Washington, DC (Headquarters). It is an EJ issue because people of color and lower economic means have been impacted disproportionately by these library closures since they rely more heavily on publicly accessible services.
- In the interim, until digitization is completed, the ability of EPA to respond to emergencies may well be reduced because important reference materials are not available or will take a significant time to be retrieved from storage or another library.
- That the public will no longer have convenient access to many of EPA's past reports and technical documents, even though EPA management has indicated that the public will get their information either from EPA hotlines, program staff (which would require a *Freedom of Information Act* or *FOIA* request), or from the EPA website.
- EPA management has assured Agency personnel and the general public that all documents will be available "on-line," for easy retrieval. Yet, EPA's own National Environmental Publications Information System has indicated that thousands of documents have yet to be "digitized."

EPA'S RATIONALE—TO PROMOTE INCREASED EFFICIENCIES

Senior EPA managers touted the message that the \$2 million budget reduction, and subsequent library closures, would promote increased "efficiencies," with virtually all EPA reports being available in an electronic format. These "savings" were illusory, and nothing could have been further from the truth. Here are some sobering facts regarding the EPA library closures:

- EPA's Office of Environmental Information (OEI), in a cost-benefit analysis completed in 2004 ("Business Case for Information Services: EPA's Regional Libraries and Centers," EPA-260-R-04-001, January 2004), estimated that EPA's library network saved Agency professional staff more than 214,000 hours—a cost savings of approximately \$7.5 million. The benefit to cost ratio was conservatively estimated at 4.4-to-1. Despite this study indicating cost savings by maintaining these specialized environmental libraries, EPA shuttered those same libraries in a "cost savings" move. It is interesting to note that this report stated, "*Librarians are found to save professional staff as much as 16 hours 'per question answered.'*" Patron surveys also suggest that

librarians save professional staff approximately one hour "per document delivered." That adds up to huge hidden costs in wasted salary dollars when you multiply EPA staffs' time to do their own library searches. The report even explains why this happens: "Library patrons do not always come with well-formed questions or clearly articulated requests for specific information resources. Rather, research is frequently a joint venture between the patron and the librarian."

I find it pretty sad that Agency management apparently ignored this report in its frenzy to shutter EPA libraries. The Agency's own report stated, "*Many of EPA's mission activities entail the need for rapid and/or repeated access to relatively specialized collections of data, scientific information and methods, and legal and legislative information. Similarly, it is necessary for EPA scientists, economists, attorneys, financial analysts, and other professional staff to stay abreast of cutting-edge developments and state-of-the-discipline information. The establishment of these collections enable EPA professionals to save time during the research phase of their activities, to conduct rapid turnaround research projects in response to evolving events, and to complete research projects that might have been stymied were unique and appropriate references not immediately available.*" The report concluded that EPA libraries were ". . . clearly a source of substantial value to the Agency, its stakeholders, and the public. Even employing the most conservative of assumptions, benefit-to-cost ratios for core library services indicate that libraries "give back" far more than they take in terms of Agency resources. . . ."

As a result of the EPA library closures, we have literally thousands of EPA staff conducting their own library searches. This is not a cost-effective use of EPA employees' time. We find the February 6, 2007, testimony of Ms. Leslie Burger particularly on point regarding the need for librarians when she stated, "*ALA understands that we are living in the 21st century, an age when users can access much of what they need from their own desk. . . . But the bottom line is that libraries still need skilled professionals to a) assist users, b) organize Internet access, and c) determine the best way to make the information available to those users. When searching the EPA site, one retrieves thousands of hits for a topic such as "water." When qualifying the search by a date range the results include items outside the date range. The user will wonder about the veracity of the data and will need the assistance of the librarian.*"

- Some of EPA's library collections were dispersed without establishing any standard procedures or criteria to ensure that important documents were not lost. For instance, the EPA Region 5 library in Chicago closed on September 30, 2006, and its collections were offered to other libraries. Ms. Leslie Burger in her February 6, 2007, testimony stated "*What this "dispersement" entails isn't exactly clear at this point and what concerns us is how this information will be handled, and therefore what type of long-term damage has been done to the effectiveness of EPA and the ability of the American public to find important environmental and government information.*" Can EPA management account for ALL of the documents and materials from, for example the Great Lakes collection?
- The National Environmental Publications Information System, EPA's repository of electronic documents, currently holds over 25,000 documents. But the Agency has thousands more documents that should be retained; most of these are not yet available in any electronic format. EPA management has not addressed the issue of how much it will cost to digitize these thousands of reports, where the money will come from, or how long it will take to complete the task.
- EPA's approach did not consider how university, school, and municipal libraries will borrow paper copies of EPA's documents through the interlibrary loan process.
- EPA's approach has deprived working-class people of a user-friendly, well-staffed EPA library system that could provide them with environmental and public health information.

MODERNIZATION OF EPA LIBRARIES

EPA management has stated that shuttering its libraries was an act of modernization. As the saying goes, "the devil is in the details." If AFGC Council 238 had been tasked with modernizing EPA's libraries, we would have first consulted with the experts such as the American Library Association, the Association of Research Libraries, and the American Association of Law Libraries. We would have

acknowledged up-front that not all parts of each EPA's library collection could be digitized, since much of it is copyrighted. We would have acknowledged the abundance of specialized and unique materials to the EPA collection—including reports paid for by taxpayers, maps and other specialized formats, which would be and are very difficult and time-consuming to digitize.

Ms. Leslie Burger stated on February 6, 2007, *"Before we begin the costly digitization process, we always consider the needs of the current and future user communities. Digital content must be created in a fashion assuring that it will be usable 25 and 50 years from now. We need to capture cataloging information, or what we call metadata, about the digital resource so that we can find the digital object now and in the future, or so that if we have to recreate it we know how we created it the first time."*

Second, if we were tasked with digitizing EPA library materials, we would have piloted the project; testing it out and discovering problem areas and processes, as well as procedures that would need to be followed to ensure accuracy and completeness of the digitization process. Third, we would have ensured that all materials had first been digitized and made available electronically, and only then would we have considered whether the redundancy of hard copies was necessary or in the best interest of the general public. All this and more we would have done prior to declaring "mission accomplished," shuttering EPA's libraries, and tossing out documents—which in fact is what EPA did when it shuttered its libraries.

Despite Administrator Johnson's testimony that *"...our library modernization effort has and will continue to provide more people with more access to EPA information, both online and through traditional library services,"* feedback from bargaining unit employees has indicated just the opposite. To date EPA's modernization effort has not provided more people with more access to EPA information.

AFGE COUNCIL 238'S RESPONSE TO EPA'S LIBRARY CLOSURES

Administrator Johnson testified on February 6, 2007, *"We also plan on continuing a strong network of physical libraries. Some will serve as repositories to hold hard copies of our collection and some will continue to provide walk-in services."* The Agency's actions in closing EPA libraries, reducing hours at other libraries and how they went about accomplishing those changes were the reasons we wanted to sit down and negotiate with EPA management and find a solution that would be in the best interest of EPA and the employees we represent.

AFGE Council 238 tried to have an impact on this issue internally by negotiating with EPA management. Senior Agency management rebuffed the Council, saying that the topic was "premature" to negotiate because no formal FY 2007 library plan had yet been adopted. On March 13, 2006, the EPA Region 5 Regional Administrator announced that the Region 5 Library would close *"...in the near future."* Therefore, on March 16, 2006, AFGE Council 238 demanded to bargain procedures and appropriate arrangements over the closing and major reorganization of EPA's libraries. In spite of AFGE Council 238's Demand to Bargain, EPA management went ahead with its dismantling of EPA libraries unchecked, with no coherent plan in place.

On August 16, 2006, AFGE Council 238 filed a grievance against the Agency for failure to negotiate with the Council over the closure of the libraries. Since the Agency made no real effort to resolve the grievance, on October 17, 2006, AFGE Council 238 invoked arbitration. On February 5, 2007, the Council filed an Unfair Labor Practice (ULP) with the Federal Labor Relations Authority (FLRA) because the Agency refused to pick an arbitrator. On September 25, 2007, FLRA Administrative Law Judge Richard A. Pearson ruled on the ULP and ordered the Agency, among other things, *"...to cease and desist from . . . Failing or refusing to proceed to arbitration. . ."* and *"...in any like or related manner, interfering with, restraining or coercing its employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute."* The September 25, 2007, FLRA Order also required EPA to post at its facilities where bargaining unit employees represented by the Council are located, copies of a notice to all employees that the EPA had committed a ULP and their agreement to abide by the FSLMRS. EPA management has dragged its feet complying with FLRA's Order to post the settlement agreement nationwide. AFGE Council 238 continues to work with FLRA to resolve this matter.

Coincidentally, on September 25, 2007, the arbitration was heard by Arbitrator George E. Larney. On February 15, 2008, Arbitrator Larney found that the Agency had violated applicable provisions of the Master Collective Bargaining Agreement (MCBA) when it acted to forestall and preclude engaging the Council in impact and implementation bargaining pertaining to issues attendant to the reorganization of its Library Network. The Arbitrator ruled to sustain the substance of the grievance

and ordered the Agency to engage the Council in impact and implementation bargaining over issues attendant to the reorganization of the Agency's Library Network in a timely manner. Such bargaining should include all issues that directly affect and may potentially have an adverse impact on the working conditions of bargaining unit employees. Arbitrator Larney stated in his ruling last month, "*Thus, the record evidence establishes with great clarity and without contravention that from the very beginning of its initiative in FY 2003, to consider making changes to its Library Network and continuing up until midway through FY 2006 when the Agency began laying the groundwork to effect the changes that had already been determined by it to implement, Management had precluded the Union, both on a national and local level, from assuming any role in the planning and decision-making stages relative to the reorganization of its Library Network and, consideration of the possible potential impacts such a reorganization would have on its bargaining unit employees. . . .*" [p. 60 of 81, February 15, 2008, *OPINION and AWARD*, EPA v AFGE Council 238 (FMCS Case No. 07-50725)]

Arbitrator Larney went on to state that ". . . *the record evidence reveals that the Agency stonewalled the Union with regard to permitting commencement of negotiations let alone allowing the Union a real and viable consultative role in the library reorganization process.*" [p. 61 of 81, February 15, 2008, *OPINION and AWARD*, EPA v AFGE Council 238 (FMCS Case No. 07-50725)]

Arbitrator Larney continued by stating ". . . *As if the Agency's conduct as evidenced by the above enumerated four (4) instances was not bad enough, the fact that, in addition to precluding the Union from entering into impact and implementation bargaining pursuant to its contractual right to do so as provided for in Article 45 of the Master Collective Bargaining Agreement (Jt.Ex.1), pertaining to the reorganization of its Library Network, the Agency compounded the err of its ways by instituting changes attendant to its reorganization initiative unilaterally without the benefit of legitimate Union input. Such unilateral changes were implemented over much of the time period the Union was seeking to enter into impact and implementation bargaining with the Agency up to and including the period of time leading to this arbitral proceeding.*" [p. 66 of 81, February 15, 2008, *OPINION and AWARD*, EPA v AFGE Council 238 (FMCS Case No. 07-50725)].

As of this date, we have not yet been able to schedule a meeting with the Agency to discuss this ruling or Arbitrator Larney's Order. AFGE Council 238 is concerned that EPA's actions tend to limit not only EPA staffs' access to information, but also discourages the public's access to EPA libraries and information.

NATIONAL PARTNERSHIP COUNCIL

On April 14, 2003, Administrator Christine Todd Whitman signed the "EPA Labor-Management Partnership Strategic Plan and Operational Guidance," which stated, among other things that: "*The overarching goal of the Partnership Council is to increase collaboration between EPA's labor unions and management thereby furthering the accomplishment of the Agency's mission through improving job satisfaction and working conditions for all employees and managers at all organizational levels and locations.*" The Strategic Plan stated that: "*Rather than having management make decisions and then negotiate with the union, the PDI process involves the union early in the decision-making process, when issues are at the formative stage. When PDI is used, the union and management work together as a team to resolve issues to their mutual satisfaction and interest.*"

EPA management not only repeatedly refuses to adopt the principles of pre-decisional involvement (PDI), but also refuses to engage the unions in meaningful negotiations such as library closures, even though they are required to do so by law and contract. For at least six years, EPA management has repeatedly said that it wanted to engage Unions in PDI as part of the NPC activities. Yet as of this date, AFGE Council 238 is unaware of any PDI activities emanating from the NPC, despite numerous requests.

As a result of the failure of EPA management to work with us on the library closures, as well as on a multitude of other issues, AFGE Council 238 served notice on February 28, 2008, along with our Union partners, that we were suspending any further involvement with the National Labor-Management Partnership Council with EPA management. AFGE Council 238 is particularly incensed by EPA's refusal to discuss, let alone negotiate with us on the closure of EPA's libraries.

SOME OF THE LOW-LIGHTS OF EPA'S LIBRARY CLOSURES INCLUDE:

- EPA's library collections were dispersed before establishing any standard procedures or criteria to ensure that important documents were not lost.

- EPA did not have a complete inventory of all documents prior to the closures, nor do we believe that they have one now. Can EPA management account for the whereabouts of ALL unique library documents prior to the day of shuttering?
- EPA's approach to closing its libraries has deprived working-class people of a user-friendly, EPA-staffed library system that provided them with environmental and public health information. The general public, particularly minorities in four major metropolitan areas have been impacted—Chicago, Dallas, Kansas City and Washington, DC.
- AFGE Council 238 finds it ironic that EPA shuttered its libraries when its *congressionally mandated mission* is to protect human health and the environment; a scientific and legal mission that requires ready access to the latest research and information in the many scientific and technical fields.
- EPA failed to fulfill its contractual obligations under the MCBA, as well as its statutory obligations under the Federal Service Labor-Management Relations Statute (5 U.S.C. 7101 *et seq.*), by failing to negotiate with AFGE Council 238 on these closures.

CONCLUSION

EPA policy-makers, managers and senior executives should depend on impartial, peer reviewed research and science to make informed decisions. A valuable resource and research tool is a first class EPA Library Network. AFGE Council 238 would like to see all EPA libraries reopened and library services fully restored by the end of fiscal year 2008.

AFGE Council 238 thanks Congress for providing \$1,000,000 (\$983,500 after rescission) in the fiscal year 2008 budget to reopen the closed EPA libraries. However, we are concerned that the funding may be insufficient to get all of the closed libraries back to full service, and will not address the reduced service at the remaining libraries, nor the reduced periodical subscriptions. Unfortunately, much of the funding will need to be spent on construction and repurchasing library furnishings, such as shelving. For example, EPA Region 5 exceded its library furniture in 2006, selling it for about \$350. That furniture was originally purchased in 1990–1991 for approximately \$35,000, and to replace that furniture now in 2008 could easily approach \$100,000.

Most importantly, AFGE Council 238 points out that there was no funding to rehire research librarians, a critical aspect of any library, let alone a state-of-the-art environmental library. Ms. Leslie Burger appears to support this position when she stated on February 6, 2007, *“Further, there are still traditional library users out there. Not everyone does their searching via web-based search engines. Many would still rather put their trust in the hands of a knowledgeable library professional, someone who knows the materials inside and out. It has been argued that the time of librarians is vanishing with the rise of the Internet, but this is a case in point where that is just not so. The EPA's environmental holdings are vast and dense, and a simple search engine just isn't enough. With the loss of the brick-and-mortar facilities comes the loss of the most important asset in the library: the librarian. After all, what good is information if you can't find it?”*

AFGE Council 238 believes that reopening EPA libraries will require aggressive oversight by Congress to ensure that the Agency successfully reopens and restores them in a timely and effective manner. We urge Congress to include explicit instructions that funding must be used to reopen shuttered EPA libraries. AFGE Council 238 is also concerned that authorizing the reopening of EPA libraries to provide public access should include providing EPA staff with ready access to the latest research and information in their respective scientific and technical fields.

AFGE Council 238 offers its services to Congress to review and comment on the plan that EPA is required to submit to the Committee on Appropriations regarding actions the Agency will take to restore publicly available libraries to provide environmental information and data to each EPA region. The Agency is to submit its report to Congress within 90 days of the signing of the appropriations bill on December 26, 2007.

We are also concerned about EPA's library closures since it appears to be a phenomenon not restricted only to EPA. Library closures are, in fact, happening at other federal agencies and departments. For example, the National Institute on Drug Abuse closed its library in 2007 for “budgetary reasons.” The Housing and Urban Development Headquarters Library was decreased in size by 60 percent; periodicals and monograph materials were reduced by over 16 percent. The General Services Administration Headquarters library closed in October 2006. We under-

stand that at the U.S. Geological Survey, budget constraints have created concerns about the future of their library services as well.

Finally, I must state that in my over 37 years as a dedicated federal civilian employee, I have never experienced such an unprecedented level of political consideration in the performance of EPA's mission. I express my sincerest concern that this political influence threatens the integrity of EPA's Principles of Scientific Integrity, and undermines the very mission of the Agency, which is to protect human health and the environment. EPA must make decisions based upon the best reasonably obtainable economic and technical information, as well as sound science that has been peer reviewed. By initiating these changes now, it would not only improve EPA staff morale, but also help accomplish EPA's mission and strengthen the faith of the American people in this world-class Agency.

Thank you again for this opportunity to speak on behalf of AFGE Council 238 and the almost 9,000 EPA employees that we represent. I am happy to take any questions from the Committee.

Chairman MILLER. Thank you. Dr. Grifo.

**STATEMENT OF DR. FRANCESCA T. GRIFO, SENIOR SCIENTIST,
UNION OF CONCERNED SCIENTISTS; DIRECTOR, SCIENTIFIC
INTEGRITY PROGRAM**

Dr. GRIFO. Good morning. My name is Francesca Grifo, and I am a Senior Scientist and Director of the Scientific Integrity Program at the Union of Concerned Scientists, a leading science-based non-profit working for a healthy environment and a safer world. Chairman Miller, Congressman Hall, thank you for this opportunity.

In 2006, as we have heard, the EPA began to close or reduce access to parts of its network of libraries as part of a modernization plan. This process took items out of circulation before making them available electronically, and did not fully consider how to make the diversity of EPA's library holdings accessible during the transition period and beyond.

We do not object to modernization per se, rather to the ongoing lack of access to critical library resources, deficiencies in stakeholder consultation, and lack of transparency in the process, and the rapid pace of library closures, in contrast to the slow rate of digitization of library holdings.

The Scientific Integrity Program works to expose political interference in Federal Government science, and to ensure a federal scientific workforce able to serve the public interest. Together with several eminent scientists, we recently released a statement entitled "Scientific Freedom and the Public Good," that outlines the conditions needed by federal scientists to do their jobs and serve the public good. Research support systems such as libraries are one such necessary condition for a thriving federal scientific enterprise.

In order to fulfill its mission to protect human health and the environment, the EPA must rely on up to date scientific information, as well as historical materials. Despite the increasing availability of information on the Internet, world class academic and scientific institutions are maintaining and expanding their libraries, with the understanding that they are the bedrock of scholarship and scientific research. Without ease of access to information, the efficiency and accuracy of EPA's determinations are under threat.

In the fall of 2006, we mobilized our network of scientists and citizen-activists to call Administrator Johnson's office and demand a halt to the closures. UCS activists made nearly 8,000 phone calls. We have continued to monitor the situation, and have met twice with EPA's Office of Environmental Information. Despite these

meetings, in the 14 months since we stopped phoning Administrator Johnson, we have seen very little progress. Our main concern continues to be that the EPA libraries are a valuable and cost-effective resource for both the Agency and the public, and that nearly a year and a half after their closures, the system that currently replaces them is inadequate.

We decided to go to the scientists themselves. Approximately nine months after the closure, we asked the scientists at the EPA what they thought; 555 scientists agreed or strongly agreed that the recent changes and closures in the EPA library system impaired their ability to do their jobs. When we went to the scientists from Regions 5, 6, and 7, where the libraries had closed, half the respondents agreed or strongly agreed that library closures impaired their ability to do their jobs.

A number of EPA scientists also provided written comments on the closures. One scientist stated: "The library must also be reopened. Since its closure, some journals are just no longer accessible." Another wrote: "EPA program offices use a lot of scientific information. Reduced library access is crippling." And there are more comments in my written testimony.

These results show that contrary to EPA's claims, the libraries are an important resource for EPA employees, and that desktop subscriptions, digitization, and the interlibrary loan service are an imperfect replacement. Essential resources, such as copyright reference books and older volumes of scientific journals, cannot be reproduced online. Plans for access to data and documentation that came from contractors, or form the basis for guidance or determinations, are unclear. The interlibrary loan system is slower than visiting a local library, and cannot replace librarians, browsing, or the spontaneous, informal learning that takes place in a library.

Almost a year and a half later, we still do not know the current status of the digitization process, if skeletal reference collections might be restored, how many librarians have been lost and any plans for their replacement, what level of access is available for materials in repositories, such as older documents, microfilm, and documents generated by EPA contractors, if there are adequate provisions to ensure access to digitized documents for people with disabilities, the status of the OPPTS Chemical Library, and any plans to digitize those materials, and perhaps most importantly, we don't have a firm deadline for when full, efficient access to needed library resources will be restored. Large problems persist, and no specific timeline for addressing them has been put forth.

The Union of Concerned Scientists urges Congress to continue its oversight of the EPA and Administrator Johnson until full access to EPA library materials is restored. Transparency of library decisions, stakeholder consultations, and protections for scientists who publicly raise concerns about the libraries are important issues, and are addressed in my written testimony.

In conclusion, regardless of the timing and manner of the eventual reopening of portions of the library network, there are three immediate actions that must happen now. The first, a basic reference collection and a librarian should be restored to scientists in Regions 5, 6, and 7, EPA headquarters, and the OPPTS Chemical Library. Second, the EPA must set and meet a firm deadline for

completion of the digitization of all EPA documents. And third, the EPA must set and meet a deadline for full public access to all the rest of EPA's informational holdings.

We look forward to working with Congress on bipartisan legislation and other reforms, to restore scientific integrity.

And I will be happy to answer any questions. Thank you.

[The prepared statement of Dr. Grifo follows:]

PREPARED STATEMENT OF FRANCESCA T. GRIFO

Good morning, my name is Francesca Grifo. I am a Senior Scientist and the Director of the Scientific Integrity Program at the Union of Concerned Scientists, a leading science-based nonprofit working for a healthy environment and a safer world. Chairman Miller, Ranking Member Sensenbrenner, and Members of the Subcommittee, thank you for the opportunity to share our work and concerns regarding the closures of libraries at the Environmental Protection Agency.

Introduction

In summer 2006, the EPA closed or reduced access to parts of its network of 27 libraries, thereby reducing the public's ability to use to a valuable source of information and making it more difficult for hundreds of EPA employees to do their jobs of protecting human health and the environment. EPA officials claim the closings are part of a modernization plan, and that all library materials will eventually be available online. Unfortunately, the process adopted by the EPA for modernizing the library system was backwards and mostly non-transparent to stakeholders concerned about the ability of the EPA to do its work. We do not object to modernization per se, rather to the woefully dysfunctional way the EPA sought to undertake it.

The Scientific Integrity Program at the Union of Concerned Scientists works to expose political interference in the work of Federal Government scientists and to push for reforms that ensure the free flow of scientific information between the government and the public. We recently released a statement entitled "Scientific Freedom and the Public Good" that outlines the conditions needed by federal scientists to do their jobs and serve the public good. Quality research support systems, such as libraries, are a necessary condition for a thriving scientific enterprise at federal agencies.

In order to fulfill its mission to protect human health and the environment, the EPA must rely on accurate, up-to-date scientific information as well as the findings of earlier studies. Scientists build their research on the findings of those who came before them. Libraries are the source of much of this intellectual wealth. To make the best scientific determinations, scientists need access to information regarding the health effects of toxic substances, records of environmental change over time, impacts on specific regions or communities and many other issues. Despite the increasing availability of information on the Internet, world-class academic institutions are maintaining and expanding their libraries with the understanding that such institutions are the bedrock of scholarship and scientific research. Without ease of access to information, the efficiency and accuracy of EPA's scientific determinations are under threat—with potentially serious consequences for public health and the environment.

We have been concerned about the fate of the EPA Libraries since the closures were first announced. Once the closures began in the fall of 2006, we mobilized our network of scientists—activists who signed our scientist statement on scientific integrity—to call administrator Stephen Johnson's office and demand a halt to the closures.

Over the course of several weeks UCS activists made nearly 8,000 phone calls to EPA headquarters. We believe that this outcry from the scientific community, together with attention from both the House and the Senate, the EPA employee unions, the library community and other non-profit organizations was instrumental in convincing the EPA to stop and reassess its plan for the library network. Since that initial flurry of activity, we have continued to monitor the situation and have met twice with officials in EPA's Office of Environmental Information (OEI) to voice our concerns.

Despite these meetings, in the 14 months since our phone offensive, we have seen very little progress in repairing the damage already done to the library network. Our main concern continues to be that the EPA libraries are a valuable and cost-effective resource for both the agency and the public, and that the system that currently replaces them is sadly inadequate.

Survey Results

To assess the impact of the library closures on EPA's workforce, UCS surveyed scientists at the EPA in July of 2007. The survey results show:

- 555 scientists (35.6 percent of survey respondents) agreed or strongly agreed that the "recent changes and closures in the EPA library system have impaired my ability to do my job."
- This opinion was especially prevalent among scientists in Regions 5, 6 and 7, which had their libraries closed. 86 scientists, or nearly half of the survey respondents, agreed, however the impact of the closures was felt across the entire EPA.

A number of EPA scientists also provided written comments on the library closures. One scientist stated "The library must also be re-opened. Since its closure, some journals are just no longer accessible." Another explained why libraries are necessary, saying "EPA program offices [. . .] use a lot of scientific information. Reduced library access is crippling" while yet another called the loss of library facilities "ludicrous."

Other quotes from EPA scientists include—

- "Give us back our library."
- "Re-open libraries."
- "Restore the libraries."
- "Libraries with the technical support staff should be restored."
- "Bring back the two EPA libraries at Headquarters that were closed. Many journal articles are now available online, but these go back only about 20 years. Unfortunately, a large number of bound journals from the collection were discarded."
- "The . . . loss of EPA libraries are bleeding down the EPA's technical knowledge base and our ability to provide or share the skills and knowledge that are critical to overall mission success."
- "Proper facilities, including re-establishing EPA's network of libraries is essential to give staff sufficient access to information."
- "Restore . . . library and other research resources. . ."
- "Have access to tech resources and in a timely fashion (includes library/lit search issues)."
- "Stop slashing services that made the EPA what it was (library closings are just one of many. . .)."
- "Give us back our library. . ."
- "Better support for ORD, libraries (regional and others). . ."

In addition some scientists described progress:

- "BTW—while I loved the library, the new service that was set-up for requesting materials via the Internet is great, quick and responsive."
- "The RTP Interlibrary Loan facility has been very good in obtaining articles and pages in books as the need has arisen."

These results show that, contrary to the EPA's claims, the libraries are an important resource for EPA employees and that the Interlibrary Loan service is an imperfect replacement, that may work for certain employees, but not for all.

A Backwards Process

The process by which EPA closed the libraries was backwards. The closing of the physical library should be the very last stage of a well-thought-out modernization plan, if and only if it is determined that the physical library is truly extraneous. Unfortunately, closing the EPA libraries was the first step and the driver of all subsequent decisions. UCS supports the digitization of those EPA documents that can legally be made available on the Internet, but again that process should be complete before the physical materials are discarded or placed in a repository. Thousands of EPA documents are currently stranded in digitization limbo for the indefinite future.

Furthermore, digitization cannot fully replace all the resources provided by a physical library. Essential resources, such as copyrighted reference books and older volumes of scientific journals, cannot be reproduced online yet are potentially invaluable for the day-to-day work of EPA's scientists. The Interlibrary Loan system is a possible solution for some of these problems, but it is undoubtedly slower than a local library and, for commonly used materials, considerably less efficient. Nor do

interlibrary loans replace browsing or the spontaneous informal learning that takes place in a library.

Our survey indicates that the current system is not meeting the needs of hundreds of EPA scientists. The EPA should carry out a comprehensive, transparent assessment of the information needs of its staff to determine which locations have a need for a full-service library, which need basic reference collections and which can make do with the current system. EPA's library specialists are valuable resources in their own right and their expertise in answering research and reference questions has been shown to save the EPA millions of dollars of staff time. Any information needs assessment should consider the best way to provide access to EPA librarians to all of EPA's staff.

Changes to the library system impact the wider public and the information that is available to them. The EPA libraries are used by community environmental justice groups, historians, independent researchers, and others. Any changes to the library system should be done in a fully transparent and open manner and the EPA should solicit comment from the various stakeholder groups with an interest in the library network.

Finally—all of this has taken far too long. Almost a year and a half is too long to be without these critical materials.

Outstanding Questions

After two meetings with OEI officials, many questions remain about the future of EPA's library network:

- What is the current status of the digitization process? When will all the unique documents be available?
- Copyrighted material can never be part of the EPA's digital library. While an interlibrary loan system will address some of these needs, it may not efficiently address the needs of all EPA staff. EPA officials have told us skeletal reference collections might be restored in each region. Has this happened? If not, when will it happen? Will stakeholders be involved in decisions regarding the composition of these collections?
- The EPA's own internal documents highlight the monetary savings derived from having trained professionals assist staff. Have librarians been lost? Will the general public be allowed access to librarians when the closed libraries reopen? In the interim? If so, how and when?
- What level of access is currently available for all materials moved to the repositories, including older documents, documents on microfilm and documents generated by EPA contractors? When will full access be restored?
- Have adequate provisions been taken to ensure access for people with disabilities?
- What level of access will the public have to materials in the repositories?
- Will the OPPTS chemical library be re-opened? Are there plans to digitize the materials from that library and make them available online? Will those materials be available through the repositories and Interlibrary loans? If so when?

Solutions

While we believe it is possible that senior library officials do seek to remedy the situation and address these questions, it has been seventeen months since the closures began. Large problems persist and no specific timeline for addressing them has been put forth. Congress has allocated funds to re-open some of the closed libraries, yet it remains unclear how long that process will take. The Union of Concerned Scientists urges this committee to continue its oversight of the EPA until adequate access to EPA library materials is consistently available to EPA employees and the public.

Immediate Actions

Regardless of the timing and manner of the eventual re-opening of portions of the library network, there are three actions that must be taken by the EPA immediately:

- **A basic reference collection should be restored to scientists in Regions 5, 6 and 7, EPA Headquarters and the Office of Prevention, Pesticides, and Toxic Substances (OPPTS).** The contents of these collections should be determined by a quick assessment of the needs of scientists and research groups in those regions. This is not a replacement for a more comprehensive assessment, or for the possible re-opening of those libraries, but

is instead a stop-gap measure to provide the necessary resources for EPA employees in the meantime.

- **The EPA must set a firm deadline for completion of the digitization of all EPA documents and meet it.**
- **The EPA must commit to full public access to EPA's informational holdings.** At a minimum this should include making materials available through OCLC and Interlibrary Loan and providing staffing and hours when members of the public may access materials in all the repositories.

Transparency of Library Decisions

- The EPA should open up its decision-making process regarding agency informational needs to public scrutiny. Information on plans for the library network should be available on the EPA's website and should include timelines for digitization and access to information, details on the digitization process, and the names of responsible parties.

Stakeholder Consultations

- The EPA should undertake a comprehensive assessment of the information needs of its workforce, including scientific and legal staff, and should design its library modernization plans with those goals in mind.
- The EPA should also routinely consult with outside stakeholders, including community groups, independent and academic researchers, and the library community, to ensure that decisions regarding its library network conform to best practices and ensure continued public access to information.

Whistleblower Rights

- In passing reforms to the Whistleblower Protection Act that include significant protections for government scientists, the House of Representatives has sent a strong signal that scientific openness and access to information should be core agency values and that scientists who speak out deserve protection. The staff of the EPA should have the right to publicly raise their concerns about the loss of the libraries.

We look forward to working with the 110 Congress on bipartisan legislation and other reforms to restore scientific integrity to federal policy-making.

BIOGRAPHY FOR FRANCESCA T. GRIFO

Francesca T. Grifo, Ph.D., is the Senior Scientist and Director of the Scientific Integrity Program at the Union of Concerned Scientists (UCS). The Scientific Integrity Program works to defend government science from political interference.

Dr. Grifo came to UCS in 2005 from Columbia University where she directed the Center for Environmental Research and Conservation graduate policy workshop and ran the Science Teachers Environmental Education Program. Prior to that, she was Director of the Center for Biodiversity and Conservation and a curator of the Hall of Biodiversity at the American Museum of Natural History in New York.

Dr. Grifo edited and contributed to the books *Biodiversity and Human Health* and *The Living Planet in Crisis*; biodiversity science and policy. In addition to her scholarly work, Dr. Grifo was the manager of the International Cooperative Biodiversity Groups Program at the National Institutes of Health. She was also a senior program officer for Central and Eastern European for the Biodiversity Support Program, a consortium of the World Resources Institute, the Nature Conservancy, and the World Wildlife Fund; and an AAAS Fellow in the Office of Research at the Agency for International Development.

Francesca earned her Ph.D. in botany from Cornell, and a BA in biology from Smith College. She currently holds adjunct appointments at Columbia and Georgetown.

Chairman MILLER. Thank you, Dr. Grifo. Mr. Rettig.

**STATEMENT OF MR. JAMES R. RETTIG, PRESIDENT-ELECT,
AMERICAN LIBRARY ASSOCIATION; UNIVERSITY LIBRARIAN,
UNIVERSITY OF RICHMOND**

Mr. RETTIG. Chairman Miller and Congressman Hall, thank you for inviting me today to speak on behalf of the American Library Association. My name is Jim Rettig. I am University Librarian at the University of Richmond in Virginia. I am also President-Elect of the American Library Association, the oldest and largest library association in the world, with some 66,000 members.

The importance of this hearing and the gravity of the situation has caused the American Association of Law Libraries to support my testimony and the stance of the American Library Association.

Overall, the key issue to determine is whether or not EPA's library plan is based on users' needs. Our sources have repeatedly told us that EPA has not reached out to the EPA library user community, the thousands of scientists, researchers, and attorneys who use these resources daily, as well as members of the public, who have benefited greatly from access to these unique collections.

In light of that, I would like to address two issues. First, the vital importance of access to scientific, environmental, legal, and other government information for EPA employees, scientists, and the American public. Second, the necessity for the information specialists, the staff librarian, to ensure the most effective access to this information. Because there are fewer libraries and professional library staff, scientists and the public will have less access to this information.

So, let me first address the loss of valuable environmental information. As one recently retired EPA librarian described it, the EPA libraries once functioned as a virtual national library for the environment. Because of its networking, both technical and human, an interlibrary loan and reference services, users of any EPA library had access to the collections of all other sites. This cost-effective structure provides wide access for staff and public.

Now that some of these regional libraries and the Chemical Library here in Washington, D.C. are closed, key links have been removed from the chain, weakening the whole. All EPA library users suffer, not just those near closed facilities. Further, the library community is deeply troubled by the dispersing of materials from the closed libraries. What this dispersement entails is not clear. We are concerned about how the dispersed information has been handled, causing long-term damage to EPA's effectiveness and the ability of the American people to find important environmental and government information.

Preservation of digital assets is also very important. Without more detailed information about the EPA's digitization project, we cannot assess whether it is digitizing the most appropriate materials, whether there is appropriate metadata and cataloging to make sure that people can access the digital materials, or whether the technology that will be used to host the digital contents meets today's standards.

While EPA has met with ALA staff on several occasions to discuss this issue, it has consistently failed to act upon the advice that came as a result of these meetings. This experience with EPA underscores the need for the executive branch to develop and imple-

ment effective and consistent approaches for how government agencies undertake digitization of government records and publications, and how they provide access to these.

The process of library improvements and/or closures, which directly impacts access to these government materials, must be coherent and user-focused, with proper planning and oversight of the process.

Our second concern is what this means for EPA's information specialists, its librarians. ALA understands that in the 21st Century, people can access much of what they need from their own desks. We also understand how complicated and costly the move to digitization can be. But the bottom line is that libraries still need skilled professionals to assist users, to organize Internet access, to determine the best way to make information available to those users, and to assure that digitization projects adhere to standards.

Furthermore, traditional library users who are not comfortable with web-based search engines put their trust in a knowledgeable library professional. The EPA's environmental collections are vast and deep, and a search engine just isn't enough. With the loss of the brick and mortar facilities comes the loss of the most important asset in the library, the librarian. After all, what good is information if you can't find it?

The future clearly calls for a hybrid, where not every single item or service is online, nor is everything confined to a physical structure. The hybrid's backbone is the profession of skilled, knowledgeable, and helpful information specialists, librarians.

In closing, ALA asks this committee to request EPA to discuss with stakeholders how best to meet user needs and plan for the future, base its actions upon these users' needs, stabilize an inventory of the collections that have been put in storage, develop and implement a government-wide process to assist agencies to design effective digitization programs, and reestablish the standard that Federal Government librarians manage Federal Government libraries.

We appreciate your responsiveness, and look forward to determining how we can save these collections, assure library service for users, and maximize access to important environmental information for staff, scientists, and the public at large.

Thank you again for this opportunity to speak on behalf of the American Library Association. I will be happy to take questions from the Committee.

[The prepared statement of Mr. Rettig follows:]

PREPARED STATEMENT OF JAMES R. RETTIG

Chairman Miller, Congressman Sensenbrenner, and Members of the Subcommittee, thank you for inviting me today to speak on behalf of the American Library Association (ALA). I sincerely appreciate the opportunity to comment on the closure of libraries in the EPA network.

My name is Jim Rettig, and I am the University Librarian of the University of Richmond (VA). I am also the President-elect of the American Library Association, the oldest and largest library association in the world with some 66,000 members, primarily school, public, academic, and some special librarians, but also trustees, publishers, and friends of libraries. The Association provides leadership for the development, promotion, and improvement of library and information services and the profession of librarianship to enhance learning and ensure access to information for all.

The importance of this hearing and the gravity of the situation has caused the American Association of Law Libraries (AALL) to support my testimony and the stance of the American Library Association. AALL is a nonprofit educational organization with over 5,000 members nationwide who respond to the legal information needs of legislators, judges, and other public officials at all levels of government, corporations and small businesses, law professors and students, attorneys, and members of the general public.

Given the library community's mission, it should come as no surprise that ALA has been so outspoken in its criticism of these closures.

Overall, from the library standpoint, the key issue to determine is whether or not the EPA's library plan is based on the end-users' needs. We think not. Our sources have repeatedly told us that there has been no outreach to the EPA Library user community—comprised of the thousands of scientists, researchers, and attorneys who use these resources on a daily basis, as well as members of the public who have benefited greatly from access to these unique collections. Indeed, there has been a lot of talk about getting information to a "broader audience," which EPA has repeatedly claimed is its primary goal, but how do the steps being taken by EPA accomplish that? ALA doesn't see how what's being done is connected to users' needs.

In light of that, I would like to address two issues:

- First, the vital importance of access to scientific, environmental, legal, and other government information for EPA employees, scientists and the American public. In the course of shutting down these libraries, has valuable, unique environmental information been lost or discarded?
- Second, the necessity of the information specialist—the staff librarian—to ensure the most effective access to this information. Because there are fewer libraries and professional library staff, scientists and the public will have limited access to this information. In an age of heightened public awareness about the environment, it seems ironic that the Administration would choose this time to limit access to years of research about the environment.

So let me first address the loss of valuable environmental information.

Libraries and other cultural heritage institutions (archives, museums, and historical societies) have been digitizing collections for nearly 20 years. The digital resources provide access 365 days a year, 24 hours a day, regardless of where a user lives or works. Geographic and political boundaries disappear. These digital resources meet international and national standards and are created by librarians, archivists, museum professionals, and representatives from the photographic and audio industry, public broadcasting, and computer industry.

As one recently retired EPA librarian described it, the EPA libraries have been functioning like a virtual National Library on the Environment. (Indeed, the EPA was at one time a leader in providing public access to critical information in their collections.) This "virtual" EPA library network functioned as a single national system. Because of its networking (both technical and human) and interlibrary loan and mutual reference services, users in any EPA library had access to the collections at all other sites. This structure is cost-effective and provides wide access for staff and for the public.

Now that some of these regional libraries and the pesticide library are closed, key links have been removed from the chain, thus weakening the whole system. All EPA library users suffer, not just those closest to the closed facilities. Where will people look for information about their drinking water? Or which pesticides are safe? Or how much pollution is in the air of their hometown? These issues are of the utmost importance; our health and safety depend on them!

In a plan that was best described as "convoluted and complicated," materials from closed EPA libraries have been boxed and sent to other locations where they are slowly being re-cataloged and then sent back to the Headquarters Library here in Washington, DC—a library that is now closed and that has no room to house these resources. Other materials have been sent to Research Triangle Park or the National Environmental Publications Internet Site (NEPIS) in Cincinnati where they are slowly being digitized.

Before libraries begin a costly digitization project, we always consider the needs of the current and future user communities. Digital content must be created in a fashion assuring that it will be usable 25 and 50 years from now. We need to capture cataloging information—which we call metadata—about each digital resource so that we can find these resources now and in the future. Furthermore if we have to recreate a resource the metadata tells us how we created it the first time, giving us information such as what camera or which scanner we used to create a digital

image. All that information goes into the metadata, along with the title, descriptive keywords, and publication data.

Further, the library community is deeply troubled by the “dispersing” of materials from the closed regional libraries and the pesticide library here in Washington, DC. What this “dispersement” entails isn’t clear at this point. We are concerned about how this information has been handled, causing long-term damage to the EPA’s effectiveness and the ability of the American public to find important environmental and government information.

Unfortunately, there continues to be a lot that we don’t know: exactly what materials have been being shipped around the country, whether there are duplicate materials in other EPA libraries, whether these items have been or will be digitized, and whether a record is being kept of what is being dispersed and what is being discarded. We remain concerned that years of research and studies about the environment may be lost forever.

Will digital documents be listed in the Online Computer Library Center (OCLC), an international database of the holdings of more than 41,555 libraries in 112 countries, making them available to other research institutions? Is there metadata or cataloging being created to ensure that digital documents can be easily located on the web? What will happen to the OCLC holdings information of the closed libraries?

EPA representatives have discussed the creation of a premier digital library for the 21st century and making content from the EPA libraries available to the general public as well as to EPA scientists. To do that, the EPA will need what libraries call a web-enabled Digital Asset Management system, which cannot only display the full range of digital resources that are being converted but also the digital resources of the future: audio, video, simulations, etc. Digital Asset Management systems, or DAMs, provide the public with tools to locate and display digital resources, but these systems can also allow the EPA to provide access to authorized users. For example, if there is a publication that contractually can only be viewed by the EPA scientists, the EPA could digitize it, put it in the database, make the metadata searchable, but allow it to be viewed only by those authorized to view it. The DAM controls all of that through its authentication system.

Preservation of digital assets is also very important. There are already many stories of digitized collections that have been saved on CDs, and when organizations have tried to access them the content is not viewable. CDs and DVDs are fine transport media, but no longer are they considered acceptable media for preservation. Networked storage combined with retention of two or three physical copies in different repositories is best preservation practice.

Without more detailed information about the EPA’s digitization project, we cannot assess whether it is digitizing the most appropriate materials, whether there is appropriate metadata or cataloging to make sure that people can access the digitized materials, and that the technology that will be used to host the digital content and the finding software meets today’s standards. In the age of digital media it has become easier and easier for information to simply get lost in the shuffle, and there is no way of knowing if that’s the case here.

Certainly, not all parts of each EPA library collection can be digitized; they probably have some materials that are copyrighted, for example. But there is so much specialized and unique material—including reports already paid for by taxpayers—and we do not know if these are part of the digitization projects. Further, we do not know about how their maps or other specialized formats have fared, formats that are very difficult and time-consuming to digitize.

In their haste to close down libraries and meet a fiscal deadline without a clear plan, EPA has created arbitrarily established deadlines. We continue to hear allegations from former and current EPA staff, who do not wish to be identified, that hundreds of valuable journals and books may have been destroyed. These staff members are concerned that materials which are unique to EPA (and in some cases exist nowhere else in the world) are no longer available.

EPA has also claimed in the past to have been following ALA guidelines in its reorganization of holdings. In fact, as far as we can tell, that meant visiting the ALA website and using our very general guidelines about “weeding” library collections. Weeding is the process of periodically removing materials from a library’s collection. Materials are weeded because they are out of date, in poor condition or are unneeded multiple copies. ALA’s weeding standards were never intended for application in a digital environment.

While EPA has met with ALA staff on several occasions to discuss this issue, it has consistently failed to act upon the advice that came as a result of these meetings.

This experience with EPA underscores the need for the Executive Branch to develop and implement effective and consistent approaches for how government agencies undertake digitization of government records and publications and how they provide access to them. The process of library improvements and/or closures—which directly impacts access to these government materials—needs to be coherent and user-focused, and there must be proper planning and oversight of the process. The government is the largest single producer of information, and the information it produces is vital to public health and safety. As a consequence, it is critically important that instead of a growing patchwork of agency programs emerging—which may fail to satisfy user information needs—that we put in place, effective and efficient public access programs to reap the benefits of the digital environment.

Our second concern is what this means for the EPA's information specialists, its librarians.

ALA understands that we are living in the 21st century, and users can access much of what they need from their own desks. In the digital environment the librarian's role is changing. We also understand how complicated and costly the move to digitization can be. But the bottom line is that libraries still need skilled professionals to a) assist users, b) organize Internet access, c) determine the best way to make the information available to those users, and d) assure that digitization projects adhere to standards. When searching the EPA site, one retrieves thousands of hits for a topic such as "water." When qualifying the search by a date range the results include items outside that date range. The user will understandably wonder about the veracity of the data and will need the assistance of a librarian.

Librarians are also needed to design the interfaces. The web makes it possible to design customized interfaces—one for scientists, one for teachers and students, and one for the general public.

Further, there are still traditional library users out there. Not everyone does their searching via web-based search engines. Many would still rather put their trust in the hands of a knowledgeable library professional, someone who knows the materials inside and out. It has been argued that the time of librarians is vanishing with the rise of the Internet, but this is a case in point where that is just not so. The EPA's environmental collections are vast and deep, and a simple search engine just isn't enough. With the loss of the brick-and-mortar facilities comes the loss of the most important asset in the library: the librarian. After all, what good is information if you can't find it?

The future clearly calls for a hybrid, where not every single item or service is online, nor is everything confined to a physical structure. And the backbone of it all is a profession of skilled, knowledgeable, and, most importantly, helpful information specialists: librarians.

In closing:

ALA asks that this committee request EPA to:

- a) Discuss with stakeholders on how best to meet user needs and plan for the future;
- b) Base its actions upon these users' needs;
- c) Stabilize and inventory the collections that have been put in storage;
- d) Develop and implement a government-wide process to assist agencies to design effective digitization programs; and
- e) Reestablish the standard that Federal Government librarians manage Federal Government libraries.

We appreciate your responsiveness and look forward to determining how we can save these collections, stabilize the library services for users and understand how best to maximize access for staff, scientists, and the public at large to important environmental information.

Thank you again for this opportunity to speak on behalf of the American Library Association, and I am happy to take any questions from the Committee.

BIOGRAPHY FOR JAMES R. RETTIG

James Rettig currently serves as university librarian at the University of Richmond in Virginia. During 2007–2008 he is serving as President-elect of the American Library Association, the world's oldest and largest library association. He has held numerous leadership position in the American Library Association, including a term on its Executive Board 2003–2006. Since 1976 he has held reference librarian and library administrative positions at Murray State University (KY), the Uni-

versity of Dayton (OH), the University of Illinois at Chicago, the College of William and Mary (VA), and the University of Richmond. He has published and lectured widely on issues in library reference service and has received awards for his work in that field. He is listed in *Who's Who in America*, 2008, 62nd ed. He is married, the father of three adult children, and is a resident of Williamsburg, Virginia (Virginia 1st Congressional District).

Chairman MILLER. Thank you, Mr. Rettig.

I understand the reason that we are being summoned to the Floor is not a vote, but at 10:30, there will be a moment of silence for the American servicemen and women who have died in Iraq, so obviously, all of us, Mr. Hall and Ms. Johnson and I would want to be there for that.

So, Ms. O'Neill, I think we can get your testimony in, and still have time to get to the Floor.

Ms. O'Neill.

STATEMENT OF MS. MOLLY A. O'NEILL, ASSISTANT ADMINISTRATOR FOR ENVIRONMENTAL INFORMATION, THE OFFICE OF ENVIRONMENTAL INFORMATION (OEI); CHIEF INFORMATION OFFICER (CIO), U.S. ENVIRONMENTAL PROTECTION AGENCY

Ms. O'NEILL. Thank you, Mr. Chairman. Good morning. Thank you for the opportunity to testify today about the progress EPA is making on strengthening its national library network, and ensuring that the information our employees and the American public need to make sound decisions about the environment is made available to them.

Let me begin by saying that I am fully committed to enhancing the EPA national library network and providing the broadest possible access to environmental information for EPA staff and the public. As EPA's CIO, I am very much aware of the opportunities that technology offers us to make more environmental information accessible to an ever growing number of users, both EPA staff and the public, regardless of their location.

However, I also understand that some users need access in more traditional formats, and that our professional librarians play a valuable role in assisting our library users. The network is comprised of 26 libraries, and provides multiple methods for delivering information services: walk-in access to collections and assistance, online resources, and interlibrary loans. To ensure that the network was evolving and keeping pace with the newer demands from a growing, diverse customer base, EPA began reexamining its library model in 2003, to identify new ways to deliver library service and meet customer needs in a cost-effective manner.

While EPA implemented changes in the walk-in services in some locations in 2006, we continued to provide a full range of library services to EPA staff and the public. EPA appreciates the thorough review the Government Accountability Office recently conducted of the EPA library network operations. We recognize the importance of transparency in our library planning processes, and we worked hard to cooperate and assist the GAO during this review.

The Agency has already taken many steps to address the recommendations made in the GAO review. We placed a 90 day moratorium on any changes at our libraries in mid-December 2006, in response to concern raised by a number of our stakeholders. In late

February 2007, this moratorium was extended indefinitely in an effort to work more closely with various concerned groups.

Since then, EPA has taken many steps to improve governance and coordinate across EPA on enhancing these services. In early 2007, the EPA issued an interim national library network policy, assigning the overall responsibility of the library network to me, the Assistant Administrator of the Office of Environmental Information. The policy established uniform governance and management for the network, applicable to all headquarters and regional offices that provide library services. To implement the policy, a number of network-level procedures and standards are being developed that will ensure commonality in the way libraries operate across the network.

At the same time the policy was issued, EPA hired a highly qualified professional librarian, with many years of experience, as the Network National Program Manager. The new Program Manager coordinates all network activities, and provides strategic direction on planning, operations, and outreach efforts.

EPA also increased outreach to outside parties on our library operations and plans. We participated in a number of meetings and conferences with professional associations such as ALA, the Special Libraries Association, and the Union of Concerned Scientists. The Agency has stepped up coordination with other federal agencies on library operations. My staff is working closely with the Federal Library and Information Center Committee, FLICC, at the Library of Congress, on our plans for the future of the network. FLICC has selected a Board of Advisors, composed of federal library managers, to work directly with the network to advise us on procedures, operations, and future directions.

I want to assure the Subcommittee that as EPA implemented improvements to the network, we continued to provide library services to our customers. Customers continue to have access to documents, either in person or via interlibrary loans. They received help in answering reference and research questions, and the Agency continues to enhance our offerings available from our digital libraries.

EPA employees now have electronic access to more than 120,000 resources from their desktops. Also, we established agreements between several of our libraries and the Centers of Excellence within the network to allow us to leverage the expertise available from other locations. Users of the services offered via these agreements report high satisfaction with the quality and timeliness of these services.

Moving forward, EPA continues to develop a long range plan for a strong and effective library network, and we continue to solicit input from both internal and external customers. In recognition of our goal to provide the service our customers need, we will be conducting a formal needs assessment to inform future planning of the network. Of particular importance is assuring EPA staff have access to the information they need to do their jobs, and EPA is committed to working collaboratively with EPA staff and union representatives on future changes to the library network that may impact employees.

As part of the planning efforts, EPA is currently working on a report to Congress pertaining to EPA's libraries requested in the report language on the Consolidated Appropriations Act of 2008. The report language directs the EPA to restore the network of EPA libraries recently closed or consolidated, and submit a report to the Committees on Appropriations regarding the actions it will take to restore publicly available libraries to provide environmental information and data to each EPA region within 90 days of the enactment.

EPA's report will describe the Agency's plans to ensure on-site support in each EPA region, the EPA Headquarters Library, and the Office of Pollution and Pesticides and Toxic Substances, our Chemical Library.

Finally, EPA is committed to examining ways to provide even greater access to environmental information to meet customers' needs. I believe that all of the Agency's information access services, be they through EPA libraries, the EPA website, or other Agency mechanisms, are components of a broader canvas that supports our commitment to provide access to environmental information.

On behalf of Administrator Johnson, thank you for inviting me to speak with you today about our EPA national library network and our ongoing efforts to strengthen it to make it a premier environmental library network.

I am happy to address any questions that the Committee might have.

[The prepared statement of Ms. O'Neill follows:]

PREPARED STATEMENT OF MOLLY A. O'NEILL

Good morning, Mr. Chairman and distinguished Members of the Subcommittee. Thank you for the opportunity to testify today about the progress EPA is making in strengthening its National Library Network and ensuring that the information our employees and the American public need to make sound decisions about their environment is available to them. This testimony reflects my dual roles as the Chief Information Officer (CIO) at the U.S. Environmental Protection Agency (EPA) and as the Assistant Administrator of the Office of Environmental Information (OEI), where the National Library Network is now one of the programs I oversee.

Introduction

Let me begin by saying that I am fully committed to enhancing the EPA National Library Network (Network) and providing the broadest possible access to environmental information for EPA staff and the public. As EPA's CIO, I am very much aware of the opportunities that technology offers us to make more environmental information accessible to an ever growing number of users, both EPA staff and the public, regardless of their location. However, I also understand that some users need access in more traditional formats and that our professional librarians play a valuable role in assisting our library users. Our vision is to be the premier model for the next generation of federal libraries by enhancing our electronic tools to complement our traditional library services.

The Network is comprised of twenty-six libraries, and provides multiple methods for delivering information services—walk-in access to collections and assistance, online resources, and interlibrary loans. To ensure that the Network was evolving and keeping pace with newer demands from a growing, diverse customer base, EPA began reexamining its library model in 2003 to identify new ways to deliver library services and meet customer needs in a cost-effective manner. While EPA implemented changes in walk-in services in some locations in 2006, we continued to provide the full range of library services to EPA staff and the public.

EPA appreciates the thorough review the Government Accountability Office (GAO) recently conducted of the EPA Library Network operations. EPA recognizes the importance of transparency in our library planning processes and worked hard to cooperate and assist GAO during its review. The Agency has already taken many steps that address the recommendations made in GAO's review.

Enhancing EPA's Library Network

We placed a 90-day moratorium on any changes at our libraries in mid-December 2006 in response to concerns raised by a number of stakeholders. In late February 2007, this moratorium was extended indefinitely in an effort to work more closely with various concerned groups. Since then, EPA has taken many steps to improve governance and coordination across EPA on enhancing library services.

In early 2007, EPA issued an interim National Library Network Policy assigning the overall responsibility for the Library Network to the Assistant Administrator of the Office of Environmental Information. The policy established uniform governance and management for the Network, applicable to all headquarters and regional offices that provide library services. To implement the policy, a number of Network-level procedures and standards are being developed that will ensure commonality in the way libraries operate across the Network.

At the same time the policy was issued EPA hired a highly qualified professional librarian with many years of experience as the Network national program manager. The new program manager coordinates all Network activities, and provides strategic direction in all planning, operations, and outreach efforts. These actions have been instrumental in strengthening our network of librarians.

EPA also increased outreach to outside parties on our library operations and plans. We participated in a number of meetings and conferences with professional associations such as the American Library Association, the Special Libraries Association, and the Union of Concerned Scientists. Whether as speakers at national meetings, exhibitors during the meetings, or in open conversation with association staff or members, we have requested input on Network operations, service delivery and future plans for the Network. We have also provided additional information online for the general public about our library operations and future plans.

The Agency has also stepped up coordination with other federal agencies on library operations. My staff is working closely with the Federal Library and Information Center Committee (FLICC) at the Library of Congress on our plans for the future of the Network. FLICC has selected a board of advisors composed of federal library managers to work directly with the Network to advise us on procedures, operations, and future directions.

I want to assure the Subcommittee that as EPA implemented improvements to the Network, we continued to provide library services to our customers. Customers continued to have access to documents, either in person or via interlibrary loans. They received help in answering reference and research questions, and the Agency continues to enhance our offerings available from our digital libraries. EPA employees now have electronic access to more than 120,000 resources from their desktops. Also, we established agreements between several of our libraries and Centers of Excellence within the Network to allow us to leverage the expertise available from other locations. Users of the services offered via these agreements report high satisfaction with the quality and timeliness of these services. For example, a 2007 survey of federal customers who requested literature searches rated EPA high in the relevance, timeliness and completeness of results.

Moving Forward

EPA continues to develop a long range plan for a strong and effective Library Network, and will continue to solicit input from both internal and external customers. In recognition of our goal to provide the service our customers need we will be conducting a formal needs assessment to inform future planning for the Network. Of particular importance is ensuring EPA staff has access to the information they need to do their jobs, and EPA is committed to working collaboratively with EPA staff and union representatives on future changes to the EPA Library Network that may impact employees.

As part of the planning efforts, EPA is currently working on a Report to Congress pertaining to EPA libraries requested in the report language on the *Consolidated Appropriations Act of 2008*. The report language directs EPA "to restore the Network of EPA libraries recently closed or consolidated. . ." and "to submit a report to the Committees on Appropriations regarding actions it will take to restore publicly available libraries to provide environmental information and data to each EPA region within 90 days of enactment of this Act." EPA's report will describe the Agency's plans to ensure on-site support in each EPA Region, the EPA Headquarters Library, and the Office of Prevention, Pesticides, and Toxic Substances (OPPTS) Chemical Library.

Finally, EPA is committed to examining ways to provide even greater access to environmental information to meet customers' needs. I believe that all of the Agency's information access services, be they through EPA libraries, the EPA Website, or other Agency mechanisms, are components of a broader canvas that supports our

commitment to provide access to environmental information. To solicit input on how EPA might enhance access to information, the Agency is conducting a National Dialogue with key stakeholders over the next several months. Based on this input, EPA plans to develop a long term Strategy for enhancing access to environmental information, including library services.

Conclusion

On behalf of Administrator Johnson, thank you for inviting me to speak with you today about the EPA National Library Network and our ongoing work to strengthen it and make it the premier environmental library network in the country. I would be happy to address any questions that you may have at this time.

Chairman MILLER. Thank you, and our questioning will take place after we return from the Floor, so we are at ease.

[Recess.]

DISCUSSION

ACCESS TO EPA LIBRARY SERVICES

Chairman MILLER. Well, the moment of silence was a little more optional than I had thought. There was not every Member present, but I am glad that I was able to go and join in it, and I apologize for the disruption.

Mr. Hall, in what I assume was sincere compliments of my renown as a lawyer, I am reminded that judges, in North Carolina at least, tell juries that they should judge the evidence not by its quantity, but by its quality and convincing force, but Ms. O'Neill, I still cannot help but notice that you are badly outnumbered, that every—all of the other witnesses tell a very different tale. Their testimony was very different from yours.

In your testimony, you discussed the future network services that would bring EPA materials to EPA employees and to the public, including the scientists who rely upon the EPA libraries, but your testimony is relatively silent, or soft-spoken, on what is available today, other than to say broadly that EPA continues to make, and to provide the full range of library services to EPA staff and the public.

And that certainly sounds like there has been no change in the access that the EPA staff has or the public has to EPA's library materials. Is that your testimony?

Ms. O'NEILL. Well, let me clarify, that is my testimony, but let me clarify. I think the services are there. They may be different, in terms of the libraries where we have closed the walk-in service, where there was obviously a physical librarian there. And that service is still there, in terms of being able to have reference checks and research and obtaining information, they just go through a different mechanism. So, where we don't have the physical presence of the library, the EPA staff have a number and a website to go to, to actually get some services for help, and we have Centers of Excellence where we have librarians there helping them find information that they need.

AVAILABILITY OF LIBRARY MATERIALS

Chairman MILLER. And is it your testimony that all the same materials are available that were available before?

Ms. O'NEILL. I can't testify that all the materials, all documents and materials are there that they were there before, but the key, unique documents are available to them.

The other thing is that we have arrangements with other libraries, so if they were general documents that we have, in our libraries, we had a lot of general documents, whether they be magazines or something that can go to a public library, but we have tried to ensure that they have as much as, there as we possibly can, based on the need.

Chairman MILLER. There has been considerable testimony, and I think part of the GAO's findings, that some materials were just thrown away. Did you keep a catalog of what was thrown away?

Ms. O'NEILL. It is not, to my knowledge, nothing was thrown away. There were some things that were outdated, that they went through, we had guidelines for each, excuse me, for each of the regional office to have, in terms of as they went through the materials in their portfolio of things, if this is a document that is unique, it needs to be tagged for digitization, and we also need to make sure it goes, and to see if we have a copy in our central repository.

Where there were journals, where we had other copies in other locations, they were tagged for recycling. I don't know of anything that was actually—or we were, we offered those materials up to other libraries first.

So, there was a whole process that went through this, in terms of what to do with the materials that were either duplicative in nature, or that no one wanted, or they weren't unique to EPA.

Chairman MILLER. Okay. Mr. Orzechoskie, I—

Mr. ORZECHOSKIE. Yes, sir.

Chairman MILLER. Apologize for difficulty—

Mr. ORZECHOSKIE. Everyone in my life has had difficulty with my name.

Chairman MILLER. Well, that is reassuring. I grew up in the South, there was not a lot of ethnic diversity. Everyone kind of came from Northern Europe or from Africa, but had European names, and had done that a long time ago. And so, I am less familiar than some Members in dealing with ethnic names or not Northern European and Western European names.

If I don't act as country, it is—

Mr. ORZECHOSKIE. You did very well.

Chairman MILLER.—it is because until recently, I have lived exclusively in North Carolina, and have not had to act Southern, because I simply was Southern. So, I don't have quite the practice in acting Southern.

Mr. ORZECHOSKIE. Well, my son lives in Louisiana, so I do, I know what you are talking about.

MORE ON ACCESS TO EPA LIBRARY SERVICES

Chairman MILLER. You have said that the access to EPA services—or do you agree that access to services and resources have not really changed since the beginning of Fiscal Year 2007?

Mr. ORZECHOSKIE. Well, I think at Region 5, they have changed dramatically. Now, I can't—you know, I don't use the library in my current position much as a Union person. I have talked to some

Union members that have had difficulty accessing some information, but the library itself is totally gone. I mean, the area where the library was is an empty room. Even the bookshelves and the materials are gone, and there is no reference librarian in Region 5 that I know of.

Chairman MILLER. All right.

Mr. ORZEHOSKIE. We were told that we could get some information from Cincinnati if we wanted to, but now, I hear we can go down to the street to our public library and get it, but I don't know how many people will be walking in and out of our offices and going down to the public library on a regular basis.

Chairman MILLER. You could, however, pick up John Grisham's latest there.

Mr. ORZEHOSKIE. Yes.

WHEN DID EPA DEVELOP LIBRARY COMMONALITY PROCEDURES AND OUTREACH?

Chairman MILLER. Ms. O'Neill, you have just, in your printed testimony, I think, in the answer to the previous question, you said that EPA was developing network standard procedures to ensure commonality, you were hiring highly qualified professional librarians to coordinate the network, that you had increased outreach to outside parties, and you were conducting a formal needs assessment to plan for your future service.

Did you do all of that before implementing the closures, or is that something you are doing now?

Ms. O'NEILL. We haven't started the formal needs assessment. That is something that we plan on doing very, in the short, in the near future. It has come out of our working with our Union, excuse me, with our library network. This is something that our librarians have mentioned that we need to do collectively, and we are committed to doing that.

So, we have been trying to engage in discussions with our librarians throughout the country, and what, really where we need to go, and that is one of the suggestions that came out. That is why I was really glad to hear it in the testimony from two other testimonies here, because that is on our queue to do.

In terms of reaching out, I can only speak to say that we did do some outreach, but we have done a lot more in the last year. I can tell you that.

Chairman MILLER. So, the sense I get from all the other witnesses is that, as you have just said, it really began after EPA had already implemented the closures and the cutbacks. Would it not have made sense, a great deal more sense, to do that before implementing the budget reductions and the closings, rather than after?

Ms. O'NEILL. Well, let me just be real clear here, just for the record. I must say that I started at EPA in January of 2007, so what I speak about is what I have been told, and what I have read about. There was outreach before the closures of the libraries, but I can't tell you, but since January, there has been additional outreach from the libraries, so I think it has been documented that we didn't do any, and I don't think that that is true. I think that we did do some outreach to different communities, in terms of getting some ideas.

A lot of the—was mentioned earlier about some of the—we started looking at this, I think, back in 2003, and as part of that, we did look at other procedures that were out there, from different associations, and we did talk to some of these associations during, over the course of those years as well.

Chairman MILLER. I assume that all of the other witnesses would have been the outreachees?

Mr. ORZEHOSKIE. Well, you know, I know they have never reached out to the Union, and I think my testimony reflects that, and that we have had to file grievances, and you know, Unfair Labor Practices, just to get where we are, and even after getting an Arbitrator to agree to an issue in negotiating with us, they still haven't.

Chairman MILLER. Okay. Mr. Stephenson.

Mr. STEPHENSON. Think about what was just said by EPA. They are in the process of thinking about doing a needs assessment to determine what their users need right now. Why wouldn't you do that first? That is what their own 2003/2004 study recommended. How can you assess your inventories of materials and decide what you need and don't need, and throw anything away or not before you do that?

And Ms. O'Neill doesn't know whether they threw out any materials. We don't know whether they threw out any materials, because they haven't inventoried their materials to determine what best to do with them. The whole thing is kind of backwards. We are closing libraries first, as I said, and now, we are beginning to do the analysis that should have been done in the first place.

Chairman MILLER. The GAO is generally noted for very temperate, qualified, cautious reports.

Mr. STEPHENSON. Fact-based.

Chairman MILLER. Fact-based. I think if Harry Truman wanted to find a one-handed economist, he probably would have certainly wanted to find a one-handed GAO employee, but you seem to be one-handed on this.

Dr. Grifo, what has been your experience in outreach? I assume that the Union of Concerned Scientists or your members would have been one of the important clients, and what contact did you receive, and what are you receiving now?

Dr. GRIFO. We actually didn't receive any, prior to our initiation of contact. I mean, it was only after we generated the phone calls, and they essentially, you know, called us and begged us to stop, to make the phone calls stop so they could use that phone line, that we actually met with them, and began our dialogue. There was nothing ahead of time.

Chairman MILLER. Okay. Mr. Rettig.

Mr. RETTIG. The closings brought this to ALA and ALA members' attention, and we have been concerned ever since, and remain concerned. There are many resources for planning digitization projects right here within the Federal Government. The National Science Foundation Institute for Museum and Library Services, the National Endowments Humanities have made grants of millions and millions of dollars over the years to develop the standards for digitization and digital libraries.

Chairman MILLER. And my time has expired. Mr. Hall is recognized for five minutes.

EPA ACTIONS SINCE THE SENATE HEARINGS

Mr. HALL. Well, I don't—I am not sure I have any questions. I have been gone, and I don't know what has been asked. I hate to be repetitious, but I do know the importance of libraries, and I know that that there is some problem here, and I am not sure what the problem is, but I think this is a good place to work it out, and hammer it out, and find out what has happened, and what ought to happen, and how you can make that happen. And I presume that is the Chairman's intent, is to get to the bottom of it, not to set blame or punish anyone, but to, how to improve it, and make something work. Libraries, the Southern Association, when they go to university, they are the accrediting entity of state colleges and universities, when they go anywhere to any university to talk about granting them a doctoral program, the very first place they go is to the library, and that is how important it is, and that is how very important probably this hearing is, so I guess the only way I can be helpful, and there is no one here to be helpful but me on this side of the docket, so I am about the best we got going right now.

If libraries have changed over the last 10 or 15 years, that may ought to be some input. If attendance to their use has dropped in recent years, maybe that ought to be talked about. If there is any efforts to engage or not to engage internal APA constituency like scientists unions or external users, I would, maybe that is important, and maybe this Chairman has gone into all that while I was not here, but I might ask to Ms. O'Neill, what has EPA done since last year's hearing with the Senate to take steps to rectify whatever the problems are, whether you agree they exist or not?

Ms. O'NEILL. Since I think the hearing in SEPW was February of 2007, I was there, I believe, and I can't remember if it was before or after that we put the—it was right around the same time, we put the—there had been a 90-day moratorium put out in December for making any changes to the library. That includes through any more recycling or taking collections away and things like that, going through the criteria to do that.

Given where we were, and a lot of the concerns that were out there, and quite frankly, because we also want to make sure that we are doing things in a way that makes sense, and in a direction that is the correct direction, in around February, I don't know the exact date, we put another moratorium out indefinitely, and that has not lifted, so there haven't been any changes since then.

So, we haven't had any changes, in terms of reducing hours, or closing any libraries since late 2006. The only thing that we asked them to do is just continue to look at those unique documents, so that when we do do digitization, that we will be ready to do that for those—in libraries that hadn't closed. We had already gone through that for the library closed.

Mr. HALL. Is that for those that the Chairman laid out in his opening statement? Have you addressed those concerns while I have been gone?

EPA REPORT TO CONGRESS

Ms. O'NEILL. In my testimony, I think I tried to tell what we were trying—what we were doing. Right now, we are in the process of finalizing a report to Congress that will put together the plan for how we are going to reestablish the physical libraries in the regions that have closed, as well as in our headquarters and Chemical Libraries that closed, so we are working very closely with the regions and headquarters to make sure we do that, in a way that makes a lot of good sense.

And based on what we have learned over the last year, as well, and beyond that, we want to make sure that plan addresses the libraries that maybe reduced their hours and made some changes last year that maybe didn't close, but that we established some minimum standards for our entire network.

Mr. HALL. And have you shared that plan with those that are testifying here?

Ms. O'NEILL. Not yet. The plan is not due until the end of March. So, it is coming, and we are on schedule to deliver that.

Mr. HALL. Mr. Chairman, I guess I would ask unanimous consent for Mr. Sensenbrenner to send whatever questions. He will read the testimony, and then, he will have some questions. I don't really have any further questions for the witness, and I thank you very much.

Chairman MILLER. Without objection, Mr. Sensenbrenner's questions will be submitted to all of you to answer.

After—I do disagree with my distinguished colleague about the purpose of oversight hearings. Sometimes, it is to place blame. That is one of the things oversight does, is look at what has happened, and when what happened shouldn't have happened, yes, place blame, criticize harshly what has happened. If there is no consequence to bad conduct, it will happen again and again. I know there are some time, Mark McGwire leaps to mind, who say let us not dwell on the past. Let us look to the future. But if we don't look to the past and place blame, if blame is merited, then it will happen again, without consequence.

I understand that the report will be due at the end of March, and you all will be given some opportunity to respond before it is produced. It sounds like you are not going to have very long to respond. How long would you expect, Ms. O'Neill, how much time will the various interested parties, the stakeholders, to use the jargon, have to review the document before it is final?

I believe you just said that it would be, it was due at the end of March, that is this month, and they hadn't received it yet. Would they be given an opportunity to comment before it was released? Is that right?

Ms. O'NEILL. I would have to check and see what the entire schedule is, but this is—

Chairman MILLER. I am sorry, what did you say?

Ms. O'NEILL. I am sorry. I would have to check to see what the schedules, in terms of where we are in our internal review right now, which is where we are right now. We were planning, I know, briefing the Union on this. We were waiting for the arbitration hearing to see how things were done, and to also, what we needed

to do, in terms of getting this out. But I have to tell you, I mean, internally, we have been spending a lot of time trying, within our own organization, trying to figure out what we can do, in terms of each of these regional areas.

They are all different, and as many of you mentioned here, Region 5, we have the libraries physically gone. In Region 7 and 6, we have—so, we have to establish a brand new library, and some of the other regions, we have to—we have different concerns, and we have been spending a lot of time with—in the places that we have closed, to figure out what we can do.

Chairman MILLER. And the report is, the report to Congress is due at the end of this month, and if you are not talking to the employees of the EPA, if you are not talking to scientists who are the clients of the libraries, if you are not talking to the librarians, who are you talking to?

Ms. O'NEILL. We are talking to those people. In fact, we have been working with our library network. We have been working with the management. We have internally been working very hard on this, and we have been briefing, I know we are briefing some of these organizations, in terms of what the plans are. I am not sure we have gotten to all of them.

EFFECT OF LIBRARY CLOSINGS ON EPA EMPLOYEES

Chairman MILLER. Mr. Orzechoskie, in my opening statement, I said that my understanding what was the abrupt closing and boxing up of materials had hobbled EPA's employees' ability to do their job. Could you—and that was based upon what I understood from your testimony and from others, but could you kind of give us a sense of the practical effect of the closings and reduced services available from the libraries, the practical effect it has on EPA's employees' ability to do their job?

Mr. ORZEHOSEKIE. Well, it has an array of effects, and I am not the best to be a library expert. I am a Union guy, but I have talked to some of our people, and we had testimony at our arbitration. And the main thing, in general, is that there is no place to go, within EPA Region 5 offices, to get library assistance, okay.

We are told, and I have talked to some people who can get help through Cincinnati over the telephone, or through the computer network, to get some research. It takes days, now, so when you are doing something that is really timely, those delays can be very critical. If you are going to be testifying at an enforcement hearing the next day or two days later, you may not have time to wait to go to a remote location and get your information.

I have had people tell me that some of the technical journals that are not necessarily reproducible, because they are copyrighted, and some of the technical reference material, individuals have actually purchased, because they can't wait for delays, and in some cases, can't get it digitized anyway. Those kinds of things.

And if you saw the picture that was up there of all those boxes, I mean, if you wanted one of the documents in that box, how would you get it?

Chairman MILLER. How would you know where it was?

Mr. ORZEHOSEKIE. Exactly.

Chairman MILLER. Dr. Grifo.

PROGRESS REPORT ON DIGITIZATION

Dr. GRIFO. I think it is interesting that, you know, we still haven't heard a progress report on the digitization. I mean, we are talking about, okay, these libraries are gone, they are physically not there, and we have talked about the kinds of things that are replacing them, I mean, the desktop libraries, the digitization of some things, and so on, the interlibrary loan system. But I think it is important to understand, and this number comes from one of the EPA's own documents, that those things, even when that digitization is complete, even when those documents, those unique documents, which are really all EPA documents, are made available electronically, that that is really less than one percent of the holdings of the libraries.

So, I think our concern is with all of these other documents. I mean, there are, you know, reference materials, copyrighted materials, older journals. I mean, there is a whole long list of things, particularly, you know, documents produced by contractors, documents produced specifically for guidance, as background for guidance and determinations. I mean, if we think back to the complexity of the mandate of the Environmental Protection Agency, I may not have the number exactly right, but it is something like, you know, 14 pieces of legislation that govern this Agency, and many of those have very specific instructions about best available science, science-based information, and how is this to happen if these things, if these very important resources have been essentially in limbo, inaccessible, you know, unreachable, unusable for now going on, what, 17 months, a very long time? How many decisions have been made in that 17 months without the best available science there for them to be used?

Chairman MILLER. Thank you. I know the red light has come on, but Mr. Stephenson, I would like to give you a chance to address this as well. Your point of view is not that of a stakeholder, but someone who has, I assume, entered upon the question without preconception.

Mr. STEPHENSON. Well, in these cases, we rely on others with their expert opinion, and I think Dr. Grifo mentioned that they did a survey of EPA's own scientists, and they admitted that it impaired their ability to do their job. The Federal Arbitrator, when he rendered his decision, said that was one of the factors in his decision, that EPA's actions affected the employees' abilities to do their jobs. So, you don't have to believe GAO. We didn't have to find anything original.

There is all kinds of evidence out there that, in fact, these documents are in limbo, and—or there is one percent or not. EPA at this point doesn't know what it should digitize, and what it should not digitize. Should it make a PDF file out of it? Should it make a searchable file out of it? It hasn't inventoried what it has, and gone through the process of determining what makes the most sense for this individual document.

Chairman MILLER. My time has expired. Mr. Hall.

Mr. HALL. Well, I am not here to, as a protector of EPA, nor as an admirer of EPA. I have, I represent a state that is an energy state, and we have had a lot of problems with the EPA, and seek-

ing answers to them, and when they wouldn't give us answers, we have sent up amendments to give them 30 days to say yes or no, and not caring whether they said yes or no, but to give us an answer we could appeal from.

And that really hasn't worked too well, so—but I want to be fair with the lady that is here to offer her knowledge and—of the past, and what is present, and what they intend to do, and then, I guess that is the duty of this Chairman, and of those of us who are asking you questions, to lay that out, and to be helpful to you if we can be, to pull you together, and give us instructions, and if it, your purposes here to tell us whether we need further legislation, what to do about the future, and I haven't heard anybody say, or make any suggestions on that, but I haven't been here, so you might have made your suggestions.

But I have found EPA hard to deal with, and I wouldn't take an appointment as the Administrator of EPA if it paid \$10 million a year, because there is no way in the world you can do your job. If you do what Congress tells you to do, you are going to get sued, and if you don't, you are going to get sued. So, it is a tough situation.

I think they could be better in answering and giving definite answers, and not stall anybody that wants to build a \$100 million refinery when gas prices are going to \$4 a gallon, when they want an approval of a request for a permit, and just not to act on it, because you can't appeal on a no action. You have to have either a turn down or an approval, and we set it up to where if they made, and I think it is in the Energy Act a year and a half ago, had an amendment there that said if we made a request, or industry made a request to build or to upgrade a refinery, that they would have 30 days, EPA would have 30 days to answer that, not caring if they said yes or no, because you can appeal from what they do. You can't appeal from nothing, and somehow, EPA was strong enough to knock that out, and we didn't get that in that Act.

But I am not here to uphold EPA, but to be fair with Ms. O'Neill, and give her a chance to answer any questions that you all have set up, and Mr. Sensenbrenner will look at the information that you have, that will go of record. The Chairman will see that all of your testimony goes into the record, and your presentation that you read from initially, and he will have some questions.

So, Mr. Chairman, I don't have anything further to say. I yield back my time, and I thank you for it.

Chairman MILLER. Thank you, Mr. Hall.

MORE ON EPA'S REPORT TO CONGRESS

Ms. O'Neill, I have a few more questions about the report that will be due in just a couple weeks, that you spoke about a minute or two ago. Who precisely is participating in preparing the report?

Ms. O'NEILL. Excuse me. We have been working with our, at OEI, obviously, we take the lead. Our Office of Environmental Information takes the lead to do the response, so we are working closely with our library network, as well as, with our network of libraries for the—

Chairman MILLER. Which—well—

Ms. O'NEILL.—as well as the regions and the headquarters and the Chemical Library that are affected with this.

Chairman MILLER. Well, I think my question what I am trying to get at is exactly which EPA employees are preparing the report, doing the work and putting it together?

Ms. O'NEILL. There are people from my staff, and there are, I am not sure if there are, who is actually writing it beyond that, in terms of the library network, that they have written parts of, but a lot of my staff are.

Chairman MILLER. So, it is your office that is preparing it.

Ms. O'NEILL. That is correct.

Chairman MILLER. Okay. And it will be ready in two weeks, or—

Ms. O'NEILL. Yes.

Chairman MILLER.—17 days, whatever is left.

Ms. O'NEILL. Yes, we will be responsive.

Chairman MILLER. Okay. And to whom are you submitting it for review before it is released?

Ms. O'NEILL. I believe we are, and I apologize for not knowing the full process here, this is the first time I have had to do an appropriations response, so I know right now, it is an internal review with our Office of Financial, or Financial Officer right now, just to make sure it is an appropriations request, to see if we have fully answered the request.

Chairman MILLER. What about OMB?

Ms. O'NEILL. I don't know. I am assuming it is going.

Chairman MILLER. You are assuming?

Ms. O'NEILL. It is going.

Chairman MILLER. That OMB will see it.

Ms. O'NEILL. I don't know for a fact.

IS EPA BRIEFING STAKEHOLDERS ON THE REPORT?

Chairman MILLER. Okay. A moment ago, Ms. O'Neill said that stakeholders were being briefed in advance. Is that correct?

Ms. O'NEILL. To my knowledge, I believe we talked about this yesterday in my, in one of my briefings, that we were going to reach out to—if we had time, obviously, if we had an opportunity to reach out to the—if there is a union meeting set up or something to reach out and talk to the unions, because we talked about, when the arbitration hearing came down, what we can do, in terms of telling them what was going to be in the plan.

Beyond that, quite frankly, I will have to get back to you on specifically who else we have reached out to, external to EPA.

Chairman MILLER. Mr. Orzechoskie, have you been briefed, or—do you know if the AFGE has been briefed or consulted in any way?

Mr. ORZECHOSKIE. As far as I know, AFGE has not been briefed. I know I personally have not.

Chairman MILLER. Right.

Mr. ORZECHOSKIE. And I think that is my concern, she said if we had time. You know, we went to arbitration. We have a Federal Arbitrator say they are supposed to negotiate with us, and she says if they have time, they might talk to us.

Chairman MILLER. And that time would come in the next two weeks. Ms. O'Neill said if there was a meeting already scheduled or not. Could you schedule a meeting just for this?

Mr. ORZEHOSKIE. Well, certainly.

Chairman MILLER. All right. I thought you might be able to work that into your schedule. How about Dr. Grifo, has Union of Concerned Scientists or scientists individually been consulted, briefed, that you know of?

Dr. GRIFO. Not to my knowledge, but we would be happy to set up a meeting on a moment's notice, almost.

Chairman MILLER. All right. Well, it sounds like that is what you will get.

Dr. GRIFO. That is okay.

Chairman MILLER. You might want to clear your calendar for March 30 and 31.

Dr. GRIFO. Good enough.

Chairman MILLER. Mr. Rettig, how about you. How about the librarians?

Mr. RETTIG. Well, the ALA Washington office staff would be the contact for that, and they have not informed me of any such discussions to date.

Chairman MILLER. Would you expect that they would?

Mr. RETTIG. We certainly hope so, and we would be very willing to enter into dialogue.

Chairman MILLER. Okay. But would you expect that the Washington office would have told you, would have mentioned it to you?

Mr. RETTIG. I don't know how many times I have spoken with staff at the Washington office this week. It would have come up then, I am sure.

Chairman MILLER. Okay. It seems like something might come up, particularly since you were testifying today. And you might want to suggest to the librarians that they keep the 30th and 31st of March free as well for consultation before the report is released.

EFFECT OF LIBRARIAN LOSS ON EPA EMPLOYEES

Mr. Rettig, I know I asked Mr. Orzechoskie and Dr. Grifo about the—how the day to day work of EPA employees and scientists was affected by the closing and limiting of the libraries, but how is the loss of librarians, what role do they play, and how does that affect employee effectiveness, and the effectiveness for scientists in doing their research?

Mr. RETTIG. Librarians bring an added value to any organization that operates on information. Not every scientist can know where all of the information that might be relevant to his or her work is available. This is what librarians specialize in. This is what we do. We help connect people to that relevant information that they can use. This is not something that one, you know, picks up just even from day to day experience. It requires education and study, and we believe that it is essential that if a federal agency is going to call something a library, that it be managed by librarians.

IS EPA REACHING OUT TO COMMUNITIES WITH LIBRARY
CLOSURES?

Chairman MILLER. Okay. Ms. O'Neill, Ms. Eddie Bernice Johnson was here earlier, but was not able to come back after the moment of silence, but she is particularly interested in Dallas, Texas. We are all proudly parochial in our jobs in the House. That is our job. And the regional library there, of course, was closed.

The public, in addition to the EPA employees in that region, relied on that office, as did the public. What are you all doing to reach out specifically to the people in the regions where the libraries are closed, and most specifically, to Dallas? Or they should be available on March 30 or 31, for consultation?

Ms. O'NEILL. No. No, we have been working with the regions, as I mentioned over the past two months, in terms of what the needs are, in terms of reestablishing the physical presence. Dallas is not—is one of those regions that we are working with.

Chairman MILLER. Who precisely are you talking about?

Ms. O'NEILL. I would have to get back to you on the exact names, but I am sure we have been coordinating through the ARA, the Assistant Regional Administrator, and his staff there.

Chairman MILLER. And they have been talking to members of the public who use that library?

Ms. O'NEILL. I can't answer that question for the record.

Chairman MILLER. Okay. We are obviously being called to the Floor for something. Mr. Hall, do you have any questions at this point?

Mr. HALL. I will ask one question. Ms. O'Neill, is there anything that we haven't asked you that you would like for us to ask you, to where you can give us full information that you have for these four people that are sitting by you there?

Ms. O'NEILL. Yeah, thank you for the opportunity. Just, you know, we have talked a little bit about, a little bit, and I recognize that we don't have a lot of time here, about the plan that is coming out to reestablish the physical presence in the actual regions and headquarters, and the Chemical Library, that have closed. I also want to just say for the record, one of the things that we are doing, because we have been listening to people, we have spent a lot of time in the last year reaching out to people, is that beyond that, we are actually looking at establishing some minimum standards for those libraries that have remained open, but to make sure everyone is on the same, and has the same amount of good quality service, that we have standard hours in place, and things like that. So, we really have gone out and listened, in terms of some of the things that people are concerned about. So, the report will also address that as well.

MORE ON THE EPA REPORT TO CONGRESS

Mr. HALL. And is your deadline for support set by someone above, and within the EPA, or is that Congressional, or who sets that deadline that you are trying to meet?

Ms. O'NEILL. Yeah, there is a Congressional deadline, actually. I believe it is the 26th, so the time would be before that, Mr. Chairman, or the 30th or 31st.

Mr. HALL. And that is—and you intend to comply with that.

Ms. O'NEILL. We have to comply with that. But we, I will say, even after the report is written, we do plan on meeting with a lot of the folks outside to get the details of the plan, to make sure, because some of these, as I have mentioned, each region has a different, is in a different place right now, so we have to really work through some of the details, in terms of buildouts, what the requirements are going to be for each of these libraries, and things like that. And we have got to, we have got a very good idea of what those things are, but we can certainly have some of these other folks that are interested in working with us identify some of the details to that, but—

Mr. HALL. Do you seek any of their advice on when you are writing out your report? It would seem like Mr. Rettig would be a great source for you.

Ms. O'NEILL. Yes, and as I mentioned earlier, we have been very, very busy internally, making sure that we can meet our commitment, okay, both from a financial standpoint—but one of the things we don't want to do, quite frankly, is reestablish these libraries, and then not have the commitment to make sure that they continue beyond next year. And so, one of the things we have been really working with is to make sure there is a commitment financially as well, to make sure that we open them, and that they stay open, meeting the requirements that we are putting in place.

Mr. HALL. And I can't see Charlie's last name, but he represents an awful lot of people that are looking to him to represent them, and to give them advice, and would he not be a good reference for you, someone to work with?

Ms. O'NEILL. Yes, he would, sir.

Mr. HALL. I would yield back my time.

REOPENING EPA LIBRARIES

Chairman MILLER. Thank you, Mr. Hall. We do have a few more minutes, because the vote will be a procedural vote, and it usually is left open for a while.

Ms. O'Neill, I have a few questions that are not essay questions or even short answer questions, but really are true/false questions, or yes or no questions.

Will the EPA reopen the three closed regional libraries this fiscal year?

Ms. O'NEILL. Yes.

Chairman MILLER. That is your commitment.

Ms. O'NEILL. Yes.

Chairman MILLER. Will you reopen the headquarters library this fiscal year?

Ms. O'NEILL. Yes.

Chairman MILLER. That is your commitment.

Ms. O'NEILL. Yes.

Chairman MILLER. Will the EPA reopen the Chemical Library this fiscal year?

Ms. O'NEILL. Yes.

Chairman MILLER. And that is your commitment.

Ms. O'NEILL. Yes.

Chairman MILLER. Okay. Mr. Stephenson, again, thank you for the GAO's report, for your work on this. It certainly sounds like there may be the occasion for more work. Will the GAO be ready to assess what happens from this point forward?

Mr. STEPHENSON. We respond to all requests.

Chairman MILLER. Well, I appreciate that you will respond. I hope the response will be yes, you will do the report, additional report.

All right. Thank you all for appearing. We do need to go for votes, and I think that we don't really have time for closing statements, but I think we have all made our views pretty well known. So, thank you for appearing, and this may not be the last time.

And under the rules of the Committee, the record will be held open for two weeks for Members to submit additional statements, and any additional questions, including from Mr. Sensenbrenner, that they might have for the witnesses, and I ask now for unanimous consent to enter a packet of materials in the record. Hearing no objection, the materials will be entered in the record.

And the hearing is now adjourned. Thank you.

[Whereupon, at 11:27 a.m., the Subcommittee was adjourned.]

Appendix 1:

ANSWERS TO POST-HEARING QUESTIONS

ANSWERS TO POST-HEARING QUESTIONS

Responses by John B. Stephenson, Director, Natural Resources and Environment, Government Accountability Office

Q1. You stated in your testimony that EPA's justification for reorganizing the library system was to generate cost savings. How much was needed to operate the library system before this reorganization occurred?

- a. Did EPA conduct a cost-benefit analysis to determine whether such reorganization would actually produce cost savings?*
- b. If not, how could EPA determine it was not setting itself up for greater funding needs through this reorganization?*

A1. According to EPA officials, the agency began reorganizing the library network to create cost savings through a more coordinated library network and more electronic delivery of services. EPA's 26 libraries within the network are operated by eight program offices and the regional offices. There is no line item for EPA libraries included in the President's budget nor in EPA's more detailed budget justification to Congress. Because of this and due to the decentralized nature of the library network, funding for the entire library network was not tracked by EPA. As a result of our review, however, EPA did provide us with estimated figures on the amount of spending by each library within the network over a five-year period. Based on this data, library spending remained relatively stable, ranging from about \$7.14 million to \$7.85 million between fiscal years 2002 through 2006.¹

EPA did not conduct a formal benefit-cost analysis to determine whether the reorganization, as it occurred in fiscal year 2007, would result in cost savings. Beginning in 2003, EPA began assessing its library network by conducting a business case assessment of its library network and a study of options for future regional library operations.² These two studies primarily focused on the Office of Environmental Information (OEI) headquarters library and the regional office libraries and were intended to determine the value of library services and inform management in the regions on their options to support library services beyond fiscal year 2006. However, EPA did not conduct a formal benefit-cost analysis of various alternatives to reorganizing the entire library network per OMB guidance.³ Such guidance specifies that agencies should conduct a benefit-cost analysis to support decisions to initiate, renew, or expand programs or projects, and that in conducting such an analysis, tangible and intangible benefits and cost should be identified, assessed, and reported. One element of a benefit-cost analysis is an evaluation of alternatives that would consider different methods of providing services in achieving program objectives.

In determining the \$2 million cost reduction for the OEI and regional office libraries as proposed in the President's fiscal year 2007 budget, EPA did not conduct a formal cost assessment. According to EPA officials, the \$2 million funding reduction was informally estimated in 2005 with the expectation that EPA would have been further along in its library reorganization effort. Furthermore, EPA did not comprehensively assess library network spending in advance of the \$2 million estimation of budget cuts.

Without conducting a formal benefit-cost assessment, it would have been difficult for EPA to determine whether the reorganization approach taken would be the most cost effective and beneficial in the long-term or whether additional funds would be needed in the short-term to implement the reorganization—such as boxing, shipping, and digitizing library materials.

Q2. When disposing of documents, did EPA violate the Federal Property Management Regulations?

A2. We believe EPA did not follow federal property management statutes and regulations when its libraries transferred property to non-governmental entities; as well

¹These figures are based on estimates from EPA. We did not independently determine their accuracy. Because EPA did not track library funding, each library in the network provided estimates that were based on past spending or enacted funding or both. In addition, libraries also varied in the type of spending data provided in terms of whether the data included contract costs, salaries, and acquisitions.

²U.S. Environmental Protection Agency, Office of Environmental Information, *Business Case for Information Services: EPA's Regional Libraries and Centers*, EPA 260-R-04-001 (January 2004); and *Optional Approaches to U.S. EPA Regional Library Support*, EPA 260-R-05-002 (June 2005).

³Office of Management and Budget, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs*, OMB Circular A-94 (Washington, D.C., Oct. 29, 1992).

as when its libraries abandoned or destroyed property without first making a written determination that it had no commercial value.

The management of federal property generally is governed by federal property management laws, 40 U.S.C. § 101 *et seq.* By law, “property” means “any interest in property,” and excludes “records of the Government.” 40 U.S.C. § 102. Under the *Federal Records Act*, the term “records” does not include “library. . . material made or acquired and preserved solely for reference. . . purposes,” 44 U.S.C. § 3301, and thus disposition of government library reference materials is to be carried out in accordance with the federal property management laws.

Under the federal property management laws and regulations, “excess property” is “property under the control of a federal agency that the head of the agency determines is not required to meet the agency’s needs or responsibilities.” 40 U.S.C. § 102(3), 41 C.F.R. § 102–36.40. Generally, federal agencies must promptly report their excess property to the General Services Administration (GSA), which administers the federal property management system. 40 U.S.C. § 524(a)(3). GSA then may determine whether the property may still meet the needs and responsibilities of other federal agencies. 41 C.F.R. § 102–36.35. If the property is not needed within the Federal Government, GSA then determines the property surplus to the Federal Government and may direct that the surplus property be donated to eligible entities or that it be offered for sale to the public by competitive offerings. *Id.* However, federal agencies may take certain actions without first notifying GSA. For example, agencies may abandon or destroy excess property without first notifying GSA, provided that the agency makes a written determination that the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated profits from its sale. 41 C.F.R. § 102–36.305. In lieu of abandonment or destruction, agencies may donate excess property without first notifying GSA; however, such donations must be only to a “public body,” such as a State or local government agency. 41 C.F.R. § 102–36.320. In addition, under some circumstances federal agencies may transfer excess property directly to another federal agency without first notifying GSA. 41 C.F.R. § 102–36.145. Although government agencies may donate property that is ultimately given to non-profit entities, generally GSA must approve such donations.⁴ 41 C.F.R. § 102–37.120.

Because the EPA materials at issue are library materials acquired for reference purposes, the materials are not “records” and instead are “property”; therefore, the materials are subject to the provisions of the federal property management statutes and their implementing regulations.

EPA libraries in Regions 5 and 6 did not follow federal property management statutes and their implementing regulations when the libraries transferred materials to nongovernmental entities.⁵ After EPA determined that library materials in Regions 5 and 6 were not required to meet EPA’s needs or responsibilities, the materials became excess property. EPA could have transferred the excess property directly to another federal agency. Had EPA first made a written determination that the property lacked commercial value or that the estimated cost of continued care and handling of the property exceeded the estimated proceeds from sale, EPA could have abandoned or destroyed the property. In lieu of abandonment or destruction, EPA could have transferred the excess property to eligible public bodies. Alternatively, EPA could have notified GSA of its excess property and then followed the applicable GSA regulations for the disposition of such property. As discussed in our report, however, EPA did not notify GSA of its excess property, made no written determination that the property lacked commercial value or that the estimated cost of continued care and handling of the property exceeded the estimated proceeds from sale, and transferred the property without charge directly to private entities.⁶

Similarly, EPA did not follow the federal property statutes and their implementing regulations when the OEI headquarters library and the Office of Prevention, Pesticides, and Toxic Substances chemical library abandoned or destroyed property without first making a written determination that it had no commercial value or that the estimated cost of continued care and handling of the property exceeded the estimated proceeds from sale. In total, the OEI headquarters library

⁴ Generally, agencies may not donate property directly to non-profit entities. Instead, such donations must be made to a designated state agency, which then transfers the property to the non-profit entity. 41 C.F.R. § 102–37.35.

⁵ For example, the Region 5 library transferred materials to BASF Corporation of Wyandotte, Michigan and to Bear River Associates of Oakland, California. In addition, the Region 6 library transferred materials such as *Preliminary Air Pollution Survey of Chromium and Its Compounds: a Literature Review* to Cambridge Environmental of Boston, Massachusetts.

⁶ GAO, *Environmental Protection: EPA Needs to Ensure That Best Practices and Procedures Are Followed When Making Further Changes to Its Library Network*, GAO–08–304, at 39 (February 29, 2008).

abandoned or destroyed over 800 books and journals and the chemical library abandoned or destroyed over 3,000 books and journals without making a written determination that the property had no commercial value or that the estimated cost of continued care and handling of the property exceeded the estimated proceeds from sale.⁷

⁷For example, the chemical library abandoned or destroyed Smith, Mark C., Christiani, David C., and Kelsey, Karl T. *Chemical Risk Assessment and Occupational Health: Current Applications, Limitations, and Future Prospects*. Westport, Connecticut: Auburn House, 1994. Journal titles abandoned or destroyed include *Journal of Environmental Pathology and Toxicology* and *Pesticides Monitoring Journal*.

ANSWERS TO POST-HEARING QUESTIONS

Responses by Molly A. O'Neill, Assistant Administrator for Environmental Information, The Office of Environmental Information (OEI); Chief Information Officer (CIO), U.S. Environmental Protection Agency

Q1. How did EPA evaluate the potential cost savings of its library modernization?

A1. EPA is moving to an expanded reliance on the electronic delivery of library services, which will provide greater access to information for EPA employees and the public. This model provides more library materials electronically and on the EPA Web site thereby increasing accessibility to environmental information and increasing the efficiency by which employees and the public can find and obtain the materials they need. In addition to improved electronic access, EPA continues to maintain a strong network of physical libraries to provide another avenue for access to EPA materials. While EPA did not conduct a formal evaluation of the potential costs savings, we are confident that the modernization of our overall library network and the expanding use of electronic delivery of these services will allow for greater access to information, faster, and at reduced costs.

Q2. How much money did EPA determine it would save by closing and reducing operations at libraries?

A2. While EPA did not conduct a formal evaluation of the potential costs savings, we are confident that the modernization of our overall library network and the expanding use of electronic delivery of these services will allow for greater and faster access to information at reduced costs.

Q3. In 2004 EPA conducted a review of the library system and found that it was cost effective. Given the findings of this report, why would EPA close libraries because of budget constraints?

A3. The review that EPA conducted in 2004 was not a review of its library system, but rather a review of the cost-benefit of its library services. The report found that the services provided by the network libraries were of value to the agency. During the development of the modernization plan every effort was made to ensure continuity of these valuable services. Furthermore, modernizing the EPA's library network system will enable EPA to provide library services more efficiently and will ensure that a high level of service will continue to all users.

Q4. When was the planning for these closings initiated? Was it before or after the 2004 Business Case Report?

A4. Preliminary discussion on the effort to modernize the library network was begun as early as 2003 and the business case and other studies were conducted as part of the overall plan for the modernization efforts.

Q5. To what extent did EPA include findings and recommendations from earlier reviews in their decision to close and scale back operations at libraries?

A5. EPA's commitment to maintaining library services, as opposed to physical library space, was built upon earlier findings, including recommendations from the Regional Library Network Workgroup.

Q6. Would you characterize this situation as an anomaly for EPA, or is it representative of systematic problems at the agency?

A6. EPA believes that the efforts we have undertaken as part of our overall library modernization efforts are important ways to ensure that more information about the environment is accessible to a wider audience for EPA staff, our partners and the public. However, EPA does recognize that more could have been done to better communicate the details of the plan and its implementation. EPA is working closely with both internal and external stakeholders to ensure that as we continue to move forward with making more information available to a broader audience we do so understanding we are meeting their library service needs.

Q7. Please describe the difference between EPA unique documents and non-unique documents? How does EPA plan on handling each?

A7. EPA unique documents are those documents published by or on behalf of EPA for which only one copy exists within the EPA National Library Network (Network). Non-unique EPA documents are those published by or on behalf of EPA for which multiple copies exist within the Network. Non-EPA documents that are EPA library holdings are addressed below in the response to Question 10.

EPA's goal is to hold one copy of each of the unique EPA documents in one of the Agency's Repositories, and create a second paper copy to be held in archive in a separate location accessible only to library staff. In addition, the Agency's goal is to hold one copy of each of the non-unique EPA documents in the appropriate Agency Repository and a second copy in the archive. Any Network library holding copies of the non-unique EPA documents will be able to keep them in their collections.

Q8. What is EPA doing with non-unique EPA documents? Are they being donated or destroyed?

A8. Each library in the Network holding copies of the non-unique EPA documents will follow best library practices and Agency procedures on the areas of collection development, library materials dispersal, and repository management in handling those copies. Such practices would include:

- Sending to one of the designated EPA repositories in RTP, Cincinnati, or Headquarters, or send to another EPA library in the Library Network.
- Offering parts of collections to other libraries in EPA.

For those documents that EPA decides should be dispersed outside of the Agency, EPA will choose from the following external dispersion options:

- Offer parts of collections to the Library of Congress.
- Offer parts of collections to other federal, State and local governments for their libraries.
- Offer parts of collections to local research universities for their libraries.

In addition, EPA will follow federal property management regulations when determining disposition of library materials.

Q9. What percentage of documents at EPA libraries is unique to those libraries?

A9. The percentages vary from a high of around 15 percent for three libraries to a low of 0.03 percent for five libraries.

Q10. How did EPA intend to handle non-EPA documents that may be under copyright protection? How do you ensure that access to that information does not change when you are transitioning to a modern database?

A10. EPA recognizes that copyrighted materials cannot be digitized and that not all such materials are available in digital format. For this reason, EPA will continue to have physical library collections available to meet the needs of its users.

Q11. Is the Great Lakes Collection referenced by Mr. Orzechoskie in his testimony an EPA unique document that would be digitized and retained? Is it available anywhere outside of the EPA library system?

A11. The EPA library system holds a number of EPA publications and other commercially produced materials on the topic of Great Lakes. Many if not most of these materials are available outside the EPA library system. The unique EPA documents will be digitized, and hard copies will be retained, as described in the answer to Question 7.

Q12. What effect did increased security procedures at federal facilities after September 11, 2001 have on the use of EPA libraries?

A12. Most of the EPA libraries have experienced a downward trend in the number of on-site visitors over the past few years. That trend has continued since September 11, 2001, due, in part, to increased security in federal facilities, as well as the increased availability of information in electronic format.

Q13. Has attendance and use of EPA libraries dropped in recent years? Which regions were affected the most? Was there a difference in the number of requests placed at those sites, or simply the number of users? How does this influence staffing and hours of operation?

A13. Overall EPA libraries have seen a reduction in the on-site use of our physical library space. The libraries in Region 1, Boston, Region 2, New York City, and Region 7, Kansas City were affected the most. It is difficult to analyze the foot traffic to determine how libraries are being used by the public or EPA employees. For example, libraries expressed that they have seen increased use by external and internal library patrons of e-mail, telephone, and the Internet to request assistance from the library staff. These popular access venues, coupled with increased security at federal facilities could explain the reported decrease in walk-ins. The decline in

walk-in users led EPA to adjust on-site staffing and hours, and to offer more on-line services to its internal and external patrons.

Q14. Did any libraries choose to close or limit operations without EPA Headquarters direction?

A14. For the last few years, Regions have faced significant budget constraints in the delivery of central support services including libraries. When it appeared that further reductions to the support dollars were likely, they assessed their situation and made independent decisions as to how to respond.

Q15. What steps did EPA take to comply with the Federal Property Management Regulations? Did EPA violate that Act?

A15. EPA followed the General Services Administration (GSA) Property Disposition Guidelines for any furniture or equipment removed from closed libraries.

It is unclear whether library holdings (i.e., books, journals, magazines, newspapers, etc.) are subject to the Federal Property Management Regulations. EPA contacted GSA staff for advice on handling materials in the EPA libraries. GSA recommended that EPA property management officials be consulted. In general the property management regulations apply to items such as furniture. Whether and how these standards apply to some resources provided by libraries is a unique problem that continues to be addressed.

Because of this lack of overall guidance for federal libraries, the Library of Congress' Federal Library and Information Collection Committee (FLICC)/Fedlink is establishing a work group to work with GSA to develop guidelines for federal libraries in accordance with library best practices and property regulations.

Q16. Is there a universal criterion for document disposition? What types of information will be destroyed? What type of information will be donated?

A16. There is no universal criterion for document disposition in the library profession. Libraries, in general, are organic operations that regularly engage in the process of acquiring and dispersing materials to manage their collections to meet the needs of their users. The EPA National Library Network is developing dispersal procedures to assist network libraries in managing their on-site collections.

Q17. What is EPA's timeline for completing the modernization process?

A17. With technology that allows for greater access and use of information evolving every day, EPA cannot put a specific end date on the continuing modernization of our library network and the expansion of access to more and more information. EPA does intend to ensure on-site library services to its Headquarters and Regional facilities by September 30, 2008.

Q18. How long does the typical interlibrary loan process take?

A18. Interlibrary Loan (ILL) requests for materials within the Network are supplied quickly, usually in a matter of a day or two for items that require hard copy delivery and possibly in the same day if the material is scanned and delivered electronically. Rush requests are expedited and have been filled in as little as one hour. For example 53 percent of the Region 5 requests were provided the same or next day with many requests being provided within an hour or two. Also, 87 percent of the items requested by Region 5 were received within two to five days. Survey results from the lead service centers show a customer satisfaction rate of 95 percent or higher for turnaround time.

In certain situations the process can take up to ten business days. This could occur when the materials requested are from libraries outside the EPA Network and depends on the availability of the requested materials and the response time of the outside libraries.

Q19. When will digitization be completed? Has EPA consulted with outside groups on how this process will be carried out?

A19. No further digitization of EPA documents has taken place since January 31, 2007. EPA requested a third party review of its digitization efforts in early 2007. The resulting documents include a series of recommendations on the digitization process and on the usability of the user interface. EPA plans to convene a panel of outside experts to assist the Agency in prioritizing the recommendations made in the study. Once this occurs, digitization can restart. At that time we can project a completion date for this effort.

Appendix 2:

ADDITIONAL MATERIAL FOR THE RECORD

Exhibit #1



United States Environmental
Protection Agency

Office of Environmental
Information (2847T)

EPA 260-R-84-001
January 2004

**Business Case for
Information Services:
EPA's Regional Libraries
and Centers**

Prepared by Stratus Consulting
Contract No: GS-10F-0299K
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for
The EPA National Library Network
U.S. EPA Office of Environmental Information
Office of Information Analysis and Access
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I. Executive Summary

The Environmental Protection Agency's network of regional libraries and environmental center libraries provides substantial value to the Agency, its professional staff, stakeholders, and the public. Calculated conservatively, the benefit-to-cost ratio for EPA library services ranges between 2:1 and 5.7:1. Libraries and librarians are nonetheless a significant investment, costing the Agency roughly \$6.2 million annually to operate and maintain. It is an opportune time to initiate an Agency-wide dialog on the extent and nature of library services at the Environmental Protection Agency.

II. Background

Established in 1971, the Environmental Protection Agency's Library Network is composed of 28 libraries serving 10 regional offices, 2 research centers, 12 research laboratories, and 4 separate libraries in Headquarters. The libraries differ in function, scope of collections, extent of services, and organizational reporting structure. Each library also differs with respect to the amount of support they offer for public access; their use of new technologies; and their level of budgetary support. Each library supports a collection of materials that have been chosen over time. These collections contain a wide range of information resources on environmental protection and management; basic sciences such as biology and chemistry; applied sciences such as engineering and toxicology; environmental law and regulation; and issues unique to specific regions or ecologies.

The combined EPA collections include 504,000 books and reports, 3,500 journal titles, 25,000 maps, and 3,600,000 information objects on microfilm. The Online Library System (OLS) provides the shared catalog for all these resources and is available to both EPA staff and the public via the Internet. The EPA Web site, with over 60,000 PDF files indexed, provides searchable access to full text, on-line EPA documents. In addition, for EPA staff, the "Desktop Library" provides an electronic collection of over 430 mostly commercial information resources. It can be accessed by all Agency staff directly from their desktop computers via the Intranet. The Desktop Library (<http://intranet.epa.gov/desktop>) includes the full text of scientific and policy journals, reports, newspapers, reference works, and databases.

Separately, each library is charged with providing services to EPA staff and external users with access to their location. However, each library within the Network has always leveraged the capabilities of the other libraries to assist patrons with information not available at their own locations. This cooperation allows the Agency to extend the value of its materials and services to create an "institutional value" greater than the sum of its parts.

Finally, some libraries contain materials that the Agency must make publicly available under law. Two examples are the Regional National Priorities List Public Dockets and the risk management plans for chemical facilities.

III. Addressing New Challenges

Due to a number of factors, EPA's libraries are under pressure to transform the way they support their diverse customers. Technological changes, changes in the marketplace for commercial information resources, and budget uncertainties contribute to a dynamic and challenging business environment. The impact of how the Agency, its staff, and the public use the Internet as well as how service providers have addressed pricing models for online databases and other resources cannot be overstated. Every year EPA libraries must re-assess the value of their services and the costs of providing those services and determine which pricing models and vendors can best fit their mission priorities and patron preferences. At the same time, budgets have been unpredictable, but generally tight. These factors have resulted in growing disparities in the resources available to EPA staff based on their physical location and organizational commitment to information access.

This analysis reviews the costs and value of services currently being provided through the Agency's network of libraries and library centers. The goal is to structure and evaluate library resources and services in a manner that will enable internal stakeholders to conduct an informed dialog concerning whether and how to re-configure the library network to address challenges and better support EPA's mission.

IV. Drivers for Change

In recent years, the need to assess and re-position library business practices has become evident. The drivers for change that led to this review are:

- Information (as distinguished from data) is an asset that EPA must manage strategically;
- The Agency is shifting away from producing printed materials, yet lacks a controlled repository of either paper or electronic EPA documents;
- Physical space requirements for libraries are periodically reviewed, yet organizations rarely consider the value of collections beyond their own need;
- Budgets have become susceptible to quick and radical shifts, creating difficulty to collect and manage information on a continuing basis;
- Direct costs for libraries are increasing and cuts are often made without input from the customer EPA organizations;
- Agency organizations are purchasing information products/services on their own. Some examples are:
 - The Superfund program contracts outside of EPA libraries to do searches for potentially responsible parties;
 - Offices subscribe to print and online journals without coordinating purchases with libraries or others in the Agency;
 - Contracts are being competed that include research support duplicative of support services being provided by libraries; and
 - Web-based and other electronic information sources and search tools are perceived to be supplanting traditional library services. The availability of Internet search engines has caused some to question (a) the role of reference

librarians, and (b) the value of traditional library classification systems and controlled vocabularies.

Recognition of the drivers for change raises a number of crucial issues:

- The relationship between EPA libraries and other Agency information providers such as clearinghouses, hotlines, inter- and intranet sites, and public information centers. The Agency has never fully addressed how the public interacts with individual units or with the Agency as a whole; EPA libraries often act as the safety net, catching the most frustrated members of the public trying to find information or assistance.
- The relationship between print and online information resources. Questions being asked include:
 - To what extent should EPA convert Agency materials, including legacy documents, to electronic formats and therefore enhance both EPA's and the public's utilization of that information?
 - Who should lead the identification, conversion, and release of materials for such an effort?
 - Does the Agency have the infrastructure to support virtual libraries for staff working in the field or from home?
- The ongoing conflicting mandate for EPA's libraries to service both internal staff and the public.
- Accepting the need to adapt to changing staff and budget levels within the libraries, e.g., doing "more with less," are there potential funding models that maintain flexibility and focus while creating efficiencies?
- The need to support emerging mission priorities, such as the public's right-to-know, homeland security, and real-time information provision for situational analyses.
- The need to acquire specialized subject matter competence quickly in order support rapidly evolving issues; and
- The need to adopt new technologies and practices for serving customers (including virtual reference) without either the funds or technical support to do so.

V. Methodology for the Business Case

Before EPA internal stakeholders and library customers can address issues such as those outlined above, it is critical to characterize current library activities in terms of costs and benefits to the Environmental Protection Agency, its professional staff, external partners and stakeholders, and the public. This analysis was approached by means of a six-step process, outlined below:

Step 1 – EPA Library activities were classified into five core functional categories: (i) performing research and interpreting results for patrons, (ii) distribution of information and bibliographic resources to patrons, (iii) selection and acquisition of information products for paper and electronic collections, (iv) access to information collections both within and outside EPA, and (v) management and administration.¹ Each of the functional categories was described along with benefits derived to EPA through performance of those functions.

Step 2 – The Office of Environmental Information worked with an Agency-wide Working Group to conduct a resource survey which included two principal aspects: detailed breakdowns of (i) library labor and extramural costs; and (ii) activity levels and service volume.

Step 3 – Cost and service volumes were apportioned to the appropriate functional categories (as identified under step 1, above).²

Step 4 – A literature review was conducted to identify appropriate and tested metrics of library performance, focusing on time-savings and knowledge value-added to EPA research, business, and information products and decisions. Key metrics and associated assumptions are outlined in Section VI, below.

Step 5 – For each applicable functional category, available data on costs and service volume were combined with the metrics to develop provisional estimates of performance.

Step 6 – For each applicable functional category, available data on costs and benefits were compared to develop a provisional benefit/cost ratio.

Step 7 – Anecdotal evidence was supplied for those activities which support the Agency's mission but for which metrics were unavailable. For example, the Regional Libraries provide information to support litigation; however, successful litigation does not provide income as it does for private firms. Successful litigation does result in benefits that cannot be assigned a dollar value. Consequently, it is difficult to subject legal and company research to a strict cost/benefit computation. Examples of situations in which library-provided information contributed to non-financial benefits are given.

VI. Key Assumptions and Metrics

Assessing the return on investment (ROI) for EPA libraries depends upon adequate characterization and valuation of core library services and resources. The literature base indicates that corporate and government libraries can achieve impressive benefit/cost ratios and ROI when considered in terms of two primary metrics:

- *Value of professional time-saved.* Patron surveys conducted by Baldwin, Strouse and others find special libraries save in-house, professional patrons substantial amounts of time through performance of various research-related activities. Librarians are found to save professional staff as much as 16 hours "per question answered." For this analysis, however, we have used a more conservative measure of 1 hour saved for quick reference questions answered; and 8 hours saved per extended reference question answered. The professional time was valued at \$35/hour per EPA staff and \$26/hour per external user.³ Patron surveys also suggest that librarians save professional staff approximately 1 hour "per document delivered."

- *Value-Added Per Reading.* Patron surveys conducted by Griffith and King, Strouse, and others find that discovery and provision of key documents, data, and information to professional researchers and administrators result in significant positive value to the organization, ranging between \$600-777 "per reading."⁴⁴ For this analysis, an approximate mid-range estimate of \$670 per resource supplied was utilized.

Section VII, below, outlines the core functional categories introduced in Section V, above; describes the benefits derived to EPA through performance of each category; and combines available data on costs and performance benefits to develop a provisional benefit/cost ratio.

VII. Summary of Key Activities and Services

EPA libraries are in the business of information science; providing unique skill sets and resources that enable the Agency to gather, classify and organize, store, retrieve, and disseminate information that is available physically and/or electronically. The EPA Library Network is a network of *librarians*, who ensure the effective and efficient functioning of EPA's information services; and *libraries*, which provide physical and cyberspace locations for storing information and conducting research activities. The key roles and functions of the librarians and libraries are described below.

VII.1 Research and Interpretation of Results for Patrons

Information science is by no means a process of passive bibliographic retrieval. It requires skilled and diplomatic communications with patrons to help them state and clarify assumptions, topical foci, research hypotheses, and other business objectives.

Library patrons do not always come with well-formed questions or clearly articulated requests for specific information resources. Rather, research is frequently a joint venture between the patron and the librarian. As the librarian helps the patron discover a variety of aspects about the research topic, the original question gradually sharpens into the right set of questions and their answers. Utilizing the "reference interview" process, librarians interact with patrons to translate ambiguous and problematic requests (e.g. Do you have information on drinking water?) into viable research topics (e.g. Our well water has had a reddish color since the last bad storm).

Specific activities included in this category include the following:

- reference assistance for EPA staff and the public,
- email referrals, including those from EPA web sites,
- hotline support,
- business information research,
- scientific and legal research,
- training and user support for EPA staff to use Agency resources including the Desktop Library and other tools purchased for their direct use.

Benefits to EPA: The Environmental Protection Agency was established to protect human health

and the environment. The development of regulations based on sound science, the enforcement of those regulations, the cleanup of hazardous waste sites using innovative technologies, and ongoing extensive research projects all require access to accurate, up-to-date information. The EPA libraries provide an in-house resource to assist EPA Program Offices in the discovery and interpretation of scientific, technological, legal, and business information. The interpretation and discovery of quality information sources informs management decisions and litigation strategies; promotes innovation in program and regulatory development, implementation, and enforcement; and enables enforcement staff to access data and information.

On an annual basis, provision of this functional category accounts for slightly under \$1.7 million, or nearly one-third of the composite library services budget (see Exhibit 1). In 2003, librarians fielded and successfully addressed 56,175 reference questions from EPA staff and the public; of that total, approximately 60 percent, or 33,499 questions were posed by internal staff (see Exhibit 2). Librarians also conducted 90,116 database searches for EPA staff and the public. For the purposes of valuation, database searches are assumed to lead to resources supplied.

Table 1. Value of Research and Interpretation of Results for Patrons

Service	2003 Total	Hours saved*	Cost per hour	Total savings
Quick reference for EPA staff	16,243	16,243	35.00	\$568,505
Quick reference for external users	14,553	14,553	26.00	\$378,378
Extended reference for EPA staff	17,256	138,048	35.00	\$4,831,680
Extended reference for external users	8,124	64,992	26.00	\$1,689,792
Database searches for EPA staff	60,275	60,275	35.00	\$2,109,625
Database searches for external users	29,841	29,841	26.00	\$775,866
Total	146,292	323,952		\$10,353,866

* - See the "Value of Professional Time Saved" assumption above.

Between answering reference questions and conducting database searches, EPA librarians are estimated to have saved over 214,566 hours of EPA staff time, resulting in a cost-savings to the Agency of slightly over \$7.5 million. The benefit to cost ratio for provision of library reference services within EPA is conservatively estimated to be over 4.4:1. Adding in the value of Public Access, the ratio exceeds 6:1.

VII.2 Distribution of Information Resources

Library customers often identify needed resources that are physically housed at other libraries both within and without the Agency or are available electronically. Likewise, the result of reference questions is often an identified document or citation that must be obtained for the user. Librarians, therefore, are responsible for obtaining needed documents (reports, articles, patents, standards, etc.) for in-house staff. Conversely, they also provide materials, often EPA documents, to outside users directly or through standard library procedures such as interlibrary loan.

Librarians manage and facilitate access to physical and electronic information products within and among EPA facilities as well as other libraries and vendors that provide resources for EPA staff. These interactions with other libraries are often referred to as interlibrary loan and include working with academic and research institutions, private companies, and law firms. Each EPA library also coordinates access to commercial vendors that can provide necessary reports, documents, and other resources as funds are available. Products such as Dun & Bradstreet company reports, full-text journal articles, and legislative case law are all acquired in this fashion by EPA libraries with the funds to purchase them.

Librarians are also responsible for ensuring that the collections they own in their location are securely preserved, kept up-to-date, and maintained. Preservation and access to physical materials is becoming pressured by issues of how large the library is in the facility. At the same time, most legacy EPA materials are only in paper format. Likewise, the preservation of digital material is challenging in cases where information products do not reside on EPA servers and/or where the library does not own the information collections. Another complication is that current EPA documents and research reports are posted and deleted from the EPA web site at the discretion of the webmaster and web site manager. When paper copies do not exist, the information is often lost.

Specific activities under this service area include the following:

- interlibrary loan and document delivery processing,
- cataloging and assigning metadata,
- journal and periodical routing,
- photocopying and downloading information,
- shelving and inventory,
- serials check-in and management and inventory control, and
- classifying and indexing electronic resources.

Benefits to EPA: It is expensive for EPA organizations to acquire information that they may need for regulatory development, enforcement actions, and research activities. However, not obtaining quality information, whether from commercial vendors or from Agency resources, could be exponentially more costly—in terms of dollars, environmental and public health impacts, and Agency credibility. EPA libraries compile and acquire bibliographic materials, databases, or other information products in order for the Agency to know what it needs to know as soon as the need is identified. The organization, upkeep, and maintenance of these collections is therefore paramount to their effective utilization. Librarians quickly access collected data and bibliographic resources (both physical and electronic) and employ effective mechanisms to provide these resources to internal patrons. These same activities also assist outside users in identifying and locating EPA-produced information.

As illustrated in Exhibit 1, the distribution and maintenance of materials accounts for almost \$1.5 million, or nearly one-quarter of the annual composite budget. As illustrated in Exhibit 2, in 2003, EPA libraries processed and delivered 99,197 documents and other information resources to patrons, including 65,825 to EPA staff.

Table 2. Value of Distribution of Information Resources

Service	2003 Total	Hours saved*	Cost per hour	Total value
Resources supplied to EPA staff	65,825	65,825	35.00	\$2,303,875
Resources supplied to external users	33,372	33,372	26.00	\$867,672
Total	99,197	99,197		\$3,171,547

* - As outlined in Section IV, above, patron surveys conducted in government library systems analogous to the EPA libraries suggest that typical distribution services (processing inter-library loans, downloading articles, providing publications from collections) save users approximately 1 hour per information resource.⁵

Considering only EPA patrons, the benefit to cost ratio for distribution and maintenance of EPA library resources is 1.5:1. Considering the value of these service to external users increased the value to 2.1:1.

VII.3 Selection and Acquisition for Collections

EPA librarians conduct all tasks related to selecting and purchasing the documents and other information products for their library collections, whether within its physical collections, electronically accessible products, or resources made available via consortial or other arrangements.

The subject specialties required to fulfill the Agency's mission are wide and varying. Because it is impossible to acquire, store and organize the information pertaining to all of EPA's mission foci, the professional judgment of librarians is key in selecting those resources most critical to the users served by each library. For example, Regional libraries frequently develop and maintain extensive collections of localized data and literature. The RTP Library has an extensive collection of air quality information. Also, selection and pricing of periodicals, journals, monographs, and other bibliographic materials has grown very complex in the electronic era, requiring knowledge of the general marketplace as well as of individual products. Negotiating licenses for electronic products is particularly challenging, requiring good negotiating skills in addition to in-depth product knowledge.

Specific activities included in this category include the following:

- specialized collection development,
- selection of journals, books, and databases,
- procurement of journals, books, and databases, and
- procurement of licensing agreements for access to electronic and digital information resources.

Benefits to EPA: Many of EPA's mission activities entail the need for rapid and/or repeated access to relatively specialized collections of data, scientific information and methods, and legal and legislative information. Similarly, it is necessary for EPA scientists, economists, attorneys, financial analysts, and other professional staff to stay abreast of cutting-edge developments and state-of-the-discipline information. The establishment of these collections enable EPA professionals to save time during the research phase of their activities, to conduct rapid turnaround research projects in response to evolving events, and to complete research projects that might have been stymied were unique and appropriate references not immediately available.

The process of selecting and acquiring information resources – including books, journals, legal subscriptions and databases – costs EPA slightly over \$1.8 million per year, or approximately 29 percent of the composite budget (see Exhibit 1). The vast majority of these costs is in journal and legal subscriptions, nearly \$1.3 million per year. Access to the most recent materials in scientific research is often critical for research activities and for field activities requiring the use of “new and innovative technologies.” Lack of current legal information can easily lead to failed litigation. However, journal and legal service costs have skyrocketed over the last 20 years well above inflation—with some titles costing tens of thousands of dollars annually—while budgets have often decreased.

The value of EPA's collections lies not only in addressing the immediate needs of its users (those identified in the statistics collected by each library), but also in addressing their future needs. If the Agency were to cease its maintenance and collection of the 504,000 books and reports and 3,500 journal subscriptions, the costs of acquiring those materials on demand would be prohibitive to all but a few locations. Likewise, the loss of time in tracking materials down and having them sent to a location would reverse the value identified previously regarding resources supplied.

While we are aware of no metrics establishing either the value of a collection or the value-added to an organization's mission through establishment of a targeted collection, it is clear that establishment and maintenance of a collection is a necessary condition for the fulfillment of EPA's knowledge-intensive mission. For example, in October, 2003, a decision by an Administrative Law Judge reduced a proposed fine by 80% and criticized the Agency for not providing sufficient financial information on the company involved.

VII.4 Access to In-House and Remote Collections

The EPA libraries offer their patrons an enormous collection of documents, journals, books, and other information products, which are available at individual library facilities, through interlibrary loan, or electronically.

As indicated previously, the combined EPA libraries' collection includes over 504,000 books and reports, 3,500 journals, 25,000 maps, over 3,600,000 microfiche, and numerous other documents. The collection is also specialized in terms of both topics and media, including videos, databases, specific types of government documents (e.g., environmental impact statements), foreign language collections, and documents requiring special care use (e.g., Risk Management Plans). In addition, EPA librarians facilitate access to related EPA resources, including numerous technical and specialized hotlines, clearing houses, and Web sites, many of which contain or distribute documents and other information products.

In recent years, libraries (including those within EPA) have come to expand the traditional view and definition of collections: the concept no longer equates with physical objects that the library owns. As noted in a recent report from the Association of Research Libraries (ARL) Collections and Access Issues Task Force, the boundaries have expanded far beyond the print collections on site or the electronic files mounted locally to include electronic materials licensed or managed by the library and materials available through consortia. Increasingly, libraries are taking responsibility for born-digital collections (such as geospatial or numeric data sets as well as event- or incident-driven Web sites) and developing tools for their management and use. In a growing number of cases, a library's collection also includes resources that reside outside the domain of the library but for which the library takes some responsibility for managing and servicing.⁸

EPA librarians must exercise a comprehensive understanding of this widespread and diverse information milieu, and be able to develop effective search and retrieval strategies to match information requests with appropriate information media and repositories.

Specific activities in this functional category include the following:

- training and outreach,
- web site maintenance, and
- other.

Benefits to EPA: The information that EPA staff require to meet the mission of the Agency is extensive and complex. EPA librarians are familiar with the content of EPA collections, both in-house and remote. This results in significant time savings. It also results in a substantial increase in the quality of information resources presented for consideration in any given research application. Not only do trained, experienced librarians find resources more quickly, what they find is typically higher quality and/or more topically appropriate.

Activities and resources that enable and facilitate access to EPA's extensive and dispersed collection of information resources cost \$568,791 per year, accounting for 9 percent of the composite budget (see Exhibit 1). This service category is vital to the efficient fulfillment of other duties, especially the provision of creative and intelligent reference services and rapid delivery of documents and other information resources. There are, however, no available metrics to quantify the value of this service category.

VILS Management and Administration

An obvious, but important, function of libraries is to provide the physical location for their patrons to conduct their information searches and research activities.

EPA library facilities provide their users with immediate access to professional information services and to clean, well-lit, quiet spaces in which to conduct research. The facilities also provide computers and other equipment to enable patrons (including the public) to locate and use electronic resources and to store EPA's inventory (both active and archival) of books, journals, and other bibliographic materials. These spaces are administered and maintained primarily by library contract staff.

Specific activities in this functional category include the following:

- coordination of EPA libraries via the EPA Library Network
- management of physical facilities,
- OCA Reading Room support,¹
- contract and task order management, and
- staff development.

Benefits to EPA: As with any human and capital resource being utilized in a dynamic environment, competent management is essential to the library's ongoing role within EPA. Each library's management team develops and executes procurement strategies, develops and evaluates technical RFPs, and manages contracts and task orders to assure the smooth operation of the Agency's far-flung physical and electronic inventory of information resources. The EPA Library Network provides a voluntary, informal structure to coordinate activities, share resources and expertise and recommend changes to policies and procedures.

The management and administration of facilities, resources, staff, and contracts accounts for 11 percent, or \$665,429 of the composite budget. The literature review conducted for this analysis uncovered no appropriate performance metrics for library system management. For this reason, no benefits estimates or benefit/cost ratio was calculated.

¹ Off-Site Consequence Analysis (OCA) information is collected under section 112(r)(7) of the Clean Air Act as part of the Risk Management Program. Individuals living within the region addressed by a particular OCA are allowed to review, but not copy or remove, such materials from federal reading rooms at 50 locations nationwide, including EPA libraries.

VIII. Integrated Analysis of Costs and Benefits

In section VII, above, five functional categories were defined and assessed in terms of their individual costs and benefits. However, none of these services occur in isolation from the others. The fundamental purpose of the EPA libraries is to provide timely business- and mission-relevant information to EPA professional staff, such information is a necessary condition for the fulfillment of the Agency's mission. Functional categories 3, 4, and 5 provide indirect support to EPA through administration and facilitation of functional categories 1 (reference) and 2 (distribution), which in turn provide direct support to Agency staff through time-saving assistance in the identification and provision of current, accurate and relevant information. If this were all that should be considered, the EPA libraries would have a benefit to cost ratio of almost 2.2:1. However, this is not all that should be considered.

In addition to the time-savings that EPA library services provide for the Agency's (and stakeholder) professional staff, EPA libraries and librarians also provide substantial value-added to Agency missions. In a classic 1993 study, Jose-Marie Griffith and Donald King estimated that professionals derive an average of \$670 per reading of pertinent technical materials. Griffith and King's estimate attaches a monetary value to the axiom that information, in and of itself, is a valuable organizational resource.⁷

As discussed in section V, EPA librarians delivered a combined total of 99,197 information products in 2003. While there clearly is no basis to assume that *all* resources delivered via EPA librarians are actually "read," it is a safe assumption that *some* of these resources are read and utilized by Agency staff and/or the external parties. If, for example, it is assumed that only 1 percent of delivered documents are read, then the value-added benefit stands at approximately \$664 thousand per year, resulting in a conservative benefit to cost ratio of almost 2.3:1. If it is assumed that one-third of delivered resources are read, then the value-added would be slightly under \$22 million per year, with an associated benefit to cost ratio of over 5.7:1.

Table 3. Integrated Analysis of Costs and Benefits

Service	2003 Total	Hours saved*	Cost per hour	Total savings
Quick reference for EPA staff	16,243	16,243	35.00	\$568,505
Quick reference for external users	14,553	14,553	26.00	\$378,378
Extended reference for EPA staff	17,256	138,048	35.00	\$4,831,680
Extended reference for external users	8,124	64,992	26.00	\$1,689,792
Resources supplied to EPA staff	65,825	65,825	35.00	\$2,303,875
Resources supplied to external users	33,372	33,372	26.00	\$867,672
Database searches for EPA staff	60,275	60,275	35.00	\$2,109,625
Database searches for external users	29,841	29,841	26.00	\$775,866
Total Cost Savings				\$13,525,393
Total Costs (see Exhibit 1)*				(\$6,195,436)
Aggregate Cost/Benefit Ratio: 2.2 : 1				
Service	2003 Total	Assume 33% Read	Value	Total Value-Added
Value-Added for Resources Delivered	99,195	33,065	670.00	\$ 22,153,550
Aggregate Cost/Benefit Ratio: 5.7 : 1				

* Note: These costs do not include expenses incurred by supporting organizations that are not separately managed by the library coordinators. No estimates were given for rent, utilities, or telecommunications costs.

IX. Moving Ahead: Toward the Optimization of EPA's Library System

The Environmental Protection Agency's libraries are clearly a source of substantial value to the Agency, its stakeholders, and the public. Even employing the most conservative of assumptions, benefit-to-cost ratios for core library services indicate that libraries "give back" far more than they take in terms of Agency resources. EPA libraries are nonetheless a significant capital and operational investment, costing the Agency roughly \$6.2 million annually to operate and maintain. It is therefore essential to assure that each component of the library system is configured and operated in a manner that is as efficient and effective as possible; and that Agency resources are well adapted to EPA's mission parameters, operating environment, and technological milieu. A critical aspect of this task will be to avoid popular myths and hyperbole concerning the operation of contemporary libraries (see section XI), while nevertheless addressing real issues, opportunities, constraints, and barriers in an effort to assure that individual libraries are well-configured in terms of their place and role within the system as a whole.

In Section VII, above, the role of EPA's libraries was characterized in terms of five functional categories. This categorization scheme was adopted in order to individually address significant cost categories incurred in each EPA library. The five functional categories were thus articulated in terms of an inward focus on library activities. However, from the perspective of library users, it makes sense to adopt a simpler model and to assess the structure of how we provide information services in terms of four basic categories:

1. Each Regional and Center Library provides some level of **basic onsite support** to their host organization. EPA staff and external users in each location receive varying amounts of onsite support such as the development of unique collections, operation of Public Information Centers, and training in the use of electronic resources.

Benefits to Regions: services/collections customized to unique needs/priorities of each Region; Easy and timely access to research assistance; Contact point for coordination with Network, Etc.

2. Librarians also currently provide **specialized research** support for EPA professional staff. Partnerships could be formed among the libraries that allow these services to be performed by dedicated staff at designated locations. These locations would be outfitted with a broad array of print and electronic information tools for providing better service more efficiently. For example, establishing one or two business research "centers of excellence" would relieve each Region of purchasing expensive, and often duplicative, business research services.

Benefits to Regions: access to services requiring specialized expertise

3. Each library currently maintains its own collection of EPA and commercial information resources, both physical and electronic. The Regions and Centers could partner to create **repositories** to share their collections and reduce duplication while meeting the needs of their users.

Benefits to Regions: Lower maintenance costs and decreased storage space; Assurance that materials will be accessible permanently

4. Libraries act as **service centers** with library staff operating hotlines, dockets, and other information-related support. Regions and Centers could partner to provide these services

for one another. For example, East and West Coast libraries could work together to expand hours for telephone inquiries. Partnering could also facilitate the development of new services including virtual reference and publications management. It could also increase onsite support for functions including interlibrary loan processing and cataloging of local collections.

Benefits to Regions: More efficient services leading to lower costs.

Although EPA professional staff utilize and rely upon all of these support areas, it remains an open question how these services should be deployed and distributed among the various units of the Agency's network of libraries. Numerous questions can be posed, including the following:

- Do individual EPA libraries need to own everything, or could collections or parts of collections be more centralized?
- Is it necessary for all libraries to support all business functions, and if not, which libraries should support which business functions?
- Do all EPA libraries need the same array and level of site support services, and if not, how should site support features be apportioned among the various units?
- Is it necessary that all EPA libraries act as service centers for their respective host unit, and if so, is there a minimum or core level of services that must be available at all sites?

Exhibit 3, below, portrays a hypothetical portfolio of services distributed among the various units of a multi-site library system. As suggested by Exhibit 3, the balance of services and resources used and provided by such a system of libraries can vary from unit-to-unit. Services and resources such as an efficient document delivery process, networked electronic information sources, downloadable Web-based journals and documents, distance learning and training, email reference, and virtual reference make it possible for individual library units to meet patron needs without necessarily providing all needed services in-house.

Similar to the hypothetical model outlined in Exhibit 3, EPA's libraries are both resource and service *users* and resource and service *providers*. Not surprisingly, some EPA libraries have more extensive collections than others, others have more sophisticated and comprehensive programs and resources to support scientific and legal research, while still others have adopted innovative approaches to public outreach and other aspects of site support. Effective management of EPA's libraries is thus best approached as an exercise in portfolio optimization. In other words, it is in the interest of all EPA information service users to optimize and leverage available resources at a shared, or Agency level, rather than unit-by-unit or program-by-program.

X. Actions for Implementation

It is important that the National Library Network work with librarians, Program Offices, and Assistant Regional Administrators (ARAs) to facilitate an Agency-wide dialog addressing the future of information services at EPA. To adequately inform such a dialog, it would be important for the Agency to take the following actions:





















- Survey EPA information users at each location to characterize the needs of end users;
- Inventory EPA information resources, including books, journal subscriptions and licenses, databases, electronic information applications and other licensed information as well as service contracts dealing with library and related information services;
- Characterize and assess organizational, business, or technological factors that either enable or constrain the shared, co-funded services and resources recommended in this report;
- Develop models of cooperative services that address the individual needs of participating locations while leveraging available resources. These models would include, among other approaches, a proposal to implement a Working Capital Fund activity for information services; and
- Review the existing policy framework for information services and develop revisions to address the roles and responsibilities of Regional Offices, Centers, Laboratories, and Program Offices in providing information services to staff.












Exhibit 1. Annual Cost Summary		
Cost Categories	Total Annual Costs	Percentage Annual Costs
Interpretation and discovery of information for patrons	\$1,668,952	27.0%
Reference desk time	\$815,781	13.0%
E-mail referral	\$85,455	1.0%
Hotline support	\$94,823	2.0%
Program support research	\$115,368	2.0%
Scientific research	\$231,365	4.0%
Business information research	\$138,328	2.0%
Legal research	\$100,453	2.0%
Other research activities	\$92,687	1.0%
Distribution and maintenance of information resources	\$1,488,799	24.0%
Interlibrary loan	\$418,786	7.0%
Document delivery	\$46,374	1.0%
Publications distribution	\$66,863	1.0%
Cataloging	\$374,863	6.0%
Serials check-in and management	\$150,191	2.0%
Shelving/inventory/repair/maintenance	\$180,721	3.0%
Other	\$251,284	4.0%
Selection and acquisition for collections	\$1,884,385	29.0%
Journals	\$1,388,393	21.0%
Books	\$284,219	4.0%
Databases (online, CD, etc.)	\$241,863	4.0%
Access to in-house and remote collections	\$568,781	9.0%
Program web site maintenance	\$135,713	2.0%
Library web site maintenance	\$94,649	2.0%
Current awareness (training and education)	\$363,429	5.0%
Management and administration	\$665,429	11.0%
Contract management	\$85,836	1.0%
Library network support	\$59,859	1.0%
Task order management	\$295,468	5.0%
Management of physical facilities and equipment (OCA support)	\$61,867	1.0%
Staff development and training	\$59,542	1.0%
Special Projects	\$193,562	3.0%
GRAND TOTAL	\$6,195,436	100%

Exhibit 2. National Library Network FY2003 Statistical Summary

Service	Req 1	Req 2 ¹	Req 3 ²	Req 4	Req 5	Req 6	Req 7	Req 8	Req 9	Req 10	Req 11 ³	Circ	Acq ⁴	All Lib	Subtotal
Reference															
Quick Reference from CPLA Staff	2,276			896	753	1,101	914	666	262	1,307	1,619	1,763	1,063	3,629	16,243
Quick Reference from external users	1,308			3,311	3,328	1,622	63	136	418	3,221	558	402	127	1,354	14,353
Extended questions from CPLA staff	802			760	1,045	660	2,848	426	4,815	1,165	451	441	2,291	1,415	17,266
Extended questions from external users	848			227	823	646	880	186	31	2,827	172	274	168	1,169	8,124
Database Searching															38,116
Database searches for CPLA staff	2,948			4,376	8,428	16,165	2,380	2,170	3,640	6,948	4,533	4,819	6,376	3,894	66,279
Database searches for external users	1,315			1,363	5,753	1,891	187	827	644	13,858	1,835	0	791	1,757	28,841
Resources Supplied															39,197
Resources supplied to CPLA staff	794			393	8,188	6,897	1,155	6,884	3,826	8,868	1,771	12,897	11,888	12,812	68,828
Resources supplied to external users	507			3,646	3,571	721	257	4,833	1,132	7,352	1,897	8,782	847	1,288	33,372
Circulation															1,482,276
People reached via e-mail	11,868			13,828	1,386,913	992	1,544	6,437	13,495	26,758	17,448	7,897	202	82,812	
Web pages reviewed (unselected)	316,325			66,546	38,383	253,233	4,258	25,359	26,031	33,817	3,355	66,448	11,728	624,338	238,984
Internet materials developed or improved	26			336	278	872	17	84	38	2,284	288	224	92	16,448	26,251
Cataloging															
Original Descriptions	813			542	489	83	1,811	212	203		123	326	119	2,818	6,318
Revisions/Descriptions				914	284	483	3,312	1,441	1,282	1,748	3,354	454	3,822	18,821	
Web pages	4						16	2	52			0		32	115

Exhibit 3. Hypothetical Distribution of Service and Activity Among Units of a Multi-Library System

	Repository	Business Area Research			Site Support	Service Center
		Legal	Scientific	Business Related		
Unit 1						
Unit 2						
Unit 3						
Unit 4	  					

    = High level of activity
    = Moderate level of activity
   = Limited activity

XI. Bibliography

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Exhibit #2

**EPA Library Network:
Challenges for FY 2007 and Beyond**

**Findings and Recommendations
of the EPA Library Network Workgroup
November 22, 2005**

EPA Library Network Workgroup Report
November 22, 2005

Workgroup Membership

EPA Region 1 – Mike MacDougall
 EPA Region 2 – Bob Messina
 EPA Region 3 – Diane McCreary
 EPA Region 4 – Janice Bramlett, Doug Haire, Rich Nawyn, Cheryl McMenamin,
 Randy Dominy
 EPA Region 5 – Jeff Kelley, Patti Krause
 EPA Region 6 – Sunder Ram
 EPA Region 7 – Fritz Hirter
 EPA Region 8 – Maureen Kiely
 EPA Region 9 – Sharon Jang
 EPA Region 10 – Julie Sears, Jonell Allamano

 EPA HQ – Richard Huffine

 RTP Lab – Debbie Balsamo
 Cincinnati Lab – Jeannie Combost
 NEIC Library – Dotty Biggs, Phoebe MacLeish

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Introduction and Background

The EPA Library Network is at a critical crossroad. Although the demand for library services remains high, EPA's libraries have been receiving less funding every year for the past four or five years. There is no specific line-item budget for EPA libraries. However, the Agency's budget, especially in the Administrative Support area, has consistently experienced reductions.

In FY 2007, the funding reductions may be much deeper than experienced in the past few years because EPA's draft FY 2007 budget that was sent to the Office of Management and Budget (OMB) contains a \$300,000 budget reduction for the EPA Headquarters Library and for Library Network coordination projects. Both of these are managed by the Office of Environmental Information.

The Office of Environmental Information also proposed a \$1.5 million reduction in the regional support budget for EPA's ten Regions. This budget reduction specifically targeted EPA's Regional libraries, although each Region has discretion in how they choose to spend their Regional support monies. However, as of FY 2006, the regional support budgets have been restructured such that the Regions do not have as much flexibility to move monies as they once had. For this reason, the ten EPA Regions may have limited options as to how they can absorb their share of the \$1.5 million reduction. They may simply have to reduce the funding for their libraries.

Purpose of EPA Library Network Workgroup

Given this background, member libraries of the EPA Library Network agreed to study the effects of a potentially large funding reduction on the network's ability to continue providing core services to EPA employees and the general public; as well as maintaining library collections.

Representatives from many of the 27 libraries in EPA's Library Network participated in a series of conference calls, where they identified problems and proposed solutions. Results of these discussions are recorded in this report.

Because the FY 2007 proposed funding reduction could primarily affect EPA's Headquarters and Regional libraries, these were examined in detail. However, other EPA libraries within the network have been experiencing their own budget challenges. For instance, the Office of Administration and Resources Management libraries in Research Triangle Park, N.C., and Cincinnati, Ohio, anticipate having subscription budgets reduced by almost 50 percent in FY 2007.

Core Services Provided by EPA Regional Libraries – Current Status

The workgroup first examined the following two questions:

1. What are the core services that our libraries provide?
2. How frequently are these core services requested by EPA employees?

Regional libraries provide a number of services to both EPA staff and to the broader public, such as students, realtors and attorneys. Regional library core services are listed below:

1. Support for EPA Scientists and Technical Staff
 - Respond to quick reference and extended reference questions
 - Request books and journal articles through inter-library loan process
 - Provide "current awareness alerts" on new journal articles, Federal Register notices and other pertinent items
 - Conduct literature searches and database searches
 - Provide support for special projects, initiatives
 - Provide training to EPA staff on how to conduct their own searches
 - Develop and maintain library Web pages (both on EPA's "intranet" and on the internet)
2. Support for EPA Enforcement Staff
 - Conduct legal research
 - Conduct business research (provides Dun & Bradstreet reports and other financial information)
 - Provide scientific and technical information to support enforcement case development
3. Collection Cataloguing and Maintenance
 - Acquire and maintain copies of EPA reports and guidance documents
 - Acquire and maintain collection of scientific and technical journals, both electronic and print
 - Acquire and maintain copies of previous years' Code of Federal Regulations (CFRs) and other legal documents
4. Support for members of the general public
 - Answer quick reference and extended reference questions
 - Send inter-library loan materials to other libraries, in response to ILL requests
 - Conduct database searches in response to public requests
 - Provide training on how to search EPA's databases

Regional Libraries – Additional Services

In addition to the core services described above, Regional libraries provide a host of other services that vary depending on the Region. Some examples include:

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1. Maintaining public reading rooms that are required by law, such as OCA reading rooms, Superfund dockets and FACA or FOLA reading rooms
2. Generating mailing lists of facilities that are regulated by EPA programs; these lists can be for either enforcement purposes or public outreach
3. Serving as a "public information center," by directing incoming phone calls to the appropriate EPA personnel; and maintaining a directory of subject matter experts within the Region
4. Coordinating publication of the EPA Region's technical reports

Core Services Provided by EPA Headquarters Library

The EPA Headquarters Library provides all the core services listed above for staff of most program offices based in the Washington, D.C. area. In addition, the Office of Environmental Information provides some coordination functions for the rest of the libraries in the EPA Library Network. The most important functions are the Online Library System electronic catalogue and the EPA Desktop Library. The Online Library System allows anyone with internet access to see what is catalogued in any of EPA's 27 libraries. The EPA Desktop Library connects staff to the commercial journals and databases acquired through a service that is funded by the Working Capital Fund.

How Frequently do EPA Staff Persons Use their EPA Libraries?

Table 1 (included at the end of this report) shows the total number of core services that the ten EPA Regional libraries and EPA HQ library provided to EPA staff during FY 2005. Some highlights include:

1. 20,210 quick reference checks
2. 20,819 extended reference checks
3. 8,286 inter-library loans
4. 85,226 database and literature searches

In addition, EPA libraries provided 52,975 resources (e.g., books, journal articles) to EPA users. And there were a total of 728,362 visits to the EPA Library Web pages. These numbers clearly show that EPA Regional employees depend on their libraries for core services. For example, these services help EPA staff to:

1. Find the latest information on health risks associated with chemical substances
2. Locate the latest information on new environmental technologies
3. Prepare scientific documentation to justify EPA's position on developing new regulations

4. Provide documentation for enforcement cases

In short, these services are extremely important, perhaps essential, in helping EPA staff perform the Agency's mission.

Possible Effect of FY 07 Budget Reductions on EPA Library Network's Ability to Provide Core Services

At present, the Library Network does not know how the FY 2007 proposed \$1.5 million cut to the Regional Support budget might be allocated among the ten Regions. For planning purposes, the Network assumed that the cut would be evenly divided. Table 2 (included at the end of this report) shows the FY 2005 staffing and budget levels for all ten Regional libraries; and what budget might be left if each Region took a hypothetical \$150,000 cut. A few facts become immediately apparent:

1. Beginning in FY 2007, the Regional libraries' capacity to handle the tens of thousands of core service requests from EPA users could be greatly diminished. Six of the ten Regions have indicated that they might either close their doors, or reduce their staffing, services and hours.
2. The number of Regional library contractor staff in FY 2005 was just over 21. This staffing level will be significantly reduced in FY 2007. None of the libraries currently have "supplies and subscriptions" budgets larger than \$75,000. Therefore, in order for a library to absorb a \$150,000 budget reduction, that library would have to reduce its contractor library staff. It is possible that the approximately 21 EPA Regional library contractor staff could be reduced by as much as one-third.
3. Given the large number of library service requests that the Regional libraries receive (see Table 1), it is unlikely that all of these requests will be able to be handled by the Library Network's remaining library staff in FY 2007.

Possible Effects of the Proposed FY 2007 Budget Reduction on the EPA Headquarters Library

The EPA Headquarters share of the proposed budget reduction is \$500,000, which equals 100% of that library's budget. This means that, without another source of funding, the EPA Headquarters Library would close. It also means that there would be no funding available to maintain the OLS electronic catalogue of EPA library holdings or the Desktop Library for access to commercial journals and databases.

Without OLS, EPA libraries will not be able to function. OLS is an electronic version of the Library Network's card catalogue. Without OLS, EPA's libraries would not be able to locate any of their individual holdings. An analogous situation would be if, for instance, a person were to visit a municipal library and ask for the location of a particular book. Without an electronic catalogue, the most that a librarian would be able to say would be something like, "It's supposed to be somewhere on the third

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floor." But that librarian would not be able to direct the inquirer to the exact shelf where the book is located; or tell the inquirer whether the book had already been checked out.

Options for Continuing to Provide Core Library Services to EPA staff

The options for each EPA Region or Headquarters office depend on whether that office chooses to close its physical library or keep it open. In either case, the goal of the EPA Library Network is to ensure that all EPA staff persons have access to core library services.

Regions that Choose to Close their Libraries

Regions that close their physical libraries have two basic options:

1. They can discontinue support of all library core services, thereby eliminating all library resources for their Regional staff.
 - This is not a good option for any EPA Regional office. The numbers in Table 1 clearly show that EPA's professional staff rely on library core services to accomplish their work. Failing to provide access to library core services could adversely affect Regional staff persons' ability to function. Therefore, the workgroup did not consider this option any further.
2. They can purchase core services from another library. This option could work as follows:
 - Funds would be transferred from the "buyer" EPA office to the "seller" library in a lump sum, through a commitment notice, at the beginning of the fiscal year.
 - The "seller" library would charge against the lump sum that it receives. Charges could be accrued as follows:
 - The number of hours a library staff person takes to complete a task, charged at that person's hourly rate.
 - The charge for using any database or resource that has a "per usage" fee.
 - In addition to the "per use" charges stated above, EPA libraries that remain open may choose to pass on other costs to their customers. For instance:
 - Libraries remaining open may have to assume the costs to maintain the OLS catalogue. If this happens, these libraries could off-set the OLS maintenance costs by adding a "per transaction fee" to any request made by the buyer.
 - These libraries may also add a "per transaction fee" to help cover the costs of databases that they have to subscribe to (a "RegsKnowledge" subscription, for instance).
 - Other administrative fees.

Regions that Keep their Libraries Open

Regions that keep their libraries open have three options:

1. They can close their physical libraries and disperse their physical collections, but retain library contractor staff to provide core services for their Regional staff. Implementing this option would include the following costs:
 - Salary for the librarian who is retained
 - Subscription to databases that the librarian would use to conduct searches
 - Closure of the physical library, and dispersal of the collection (described in detail later in the report)
2. They can retain both library staff and their physical collection; and provide core services for their Regional staff only (and perhaps non-EPA users within their region). For each Region, implementing this option would require the following costs:
 - Salary for library staff
 - Subscriptions to databases needed to conduct searches; and
 - Possibly – paying a share of the cost to maintain the OLS catalogue
3. They can maintain their library, and sell services to EPA offices that no longer have a library.
 - Costs to implement this option would be similar to those identified in Option 2. There may be some additional costs for subscriptions to databases as the library's "service area" expands. However, libraries implementing this option could receive additional funding from other regions.

In addition to the three options above, EPA Region 4 has been exploring other possibilities, including developing partnerships with educational institutions and other Federal agencies that have a similar mission. This unique arrangement may be mutually beneficial to the agencies involved, who could share the costs to provide services.

EPA Libraries that Could Possibly Sell Library Core Services

As of 11/21/2005, four Regional Libraries (3, 5, 8, and 10) have expressed interest in selling services. In addition, the large laboratory libraries at RTP and Cincinnati could supply services on a cost-reimbursable basis.

Libraries may sell services on a broad level that would include general reference and inter-library loan. Or they could sell services that require special expertise. For instance, Region 3 has considerable expertise in conducting research on companies. There has been some discussion of two or three of these libraries partnering to sell services, in order to share operating costs.

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The final structure of the EPA Library Network will become more apparent in the next few months, as individual regions make their decisions to close their libraries, or keep them open.

Dispersal of EPA Library Collections

The workgroup spent considerable time discussing the potential impact of FY 2007 library closures on the accessibility of the EPA library collections.

EPA libraries have traditionally been the repositories of EPA reports and guidance documents, many of which are used by both EPA and non-EPA customers. The OLS catalogue shows that the Agency has approximately 350,000 holdings, consisting of reports, books, technical journals, audiotapes and videotapes. Many EPA libraries (including Regional and lab libraries) have unique holdings which are not found anywhere else in the network.

Responsible dispersal of an EPA library's collection is an essential part of any library closure. "Responsible dispersal" means that the collection, especially those unique holdings, must remain accessible to both EPA and non-EPA users on an ongoing basis. In other words, it is not a viable option to simply lock the doors of a library, and leave the collection in the space where nobody has access to it.

Closure of the EPA Headquarters library, and several Regional libraries, presents a huge and costly challenge for the Agency to responsibly disperse its collection by September 30, 2006. EPA Regions that choose to close their libraries will be faced with the costs for someone to:

1. Go through the collection and weed out multiple copies of items;
2. Place the items in boxes; catalogue and label each box; and
3. Revise OLS to show the new locations of each item.

Specific costs will vary for each Region, depending on the size of the collection. The network can draw on the experience of the Edison, NJ lab library closure, to get some idea of the costs associated with collection dispersal.

For even the relatively small Edison, NJ collection, it would take one full-time librarian more than a year to disperse the collection. And unfortunately, Regional libraries that choose to close have less than a year to disperse their collections. Everything should be completed by September 30, 2006.

It would be possible to bring in a "SWAT Team" of contractor staff to quickly disperse the EPA library collections. For example, a contractor team of 4 library staff would be able to successfully disperse the Edison lab library collection in 3 – 6 months. A four-person team would cost an estimated \$150 - \$200 per hour, or \$24,000 - \$32,000 per month.

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These are estimated costs are for the Edison, NJ lab library collection, which is relatively small compared to other EPA libraries. The costs for a larger EPA library collection will be higher. The larger the collection held by a library, the greater the costs for its responsible dispersal.

Workgroup Recommendations

1. The "no library" option is the least viable option any EPA Region. Table 1 clearly shows that many EPA regional staff rely on the core services that the EPA library network provides. Therefore, any Region that closes its library should plan to set aside funds to pay another EPA library in the network to provide these services.
2. Some EPA libraries that remain open in FY 2007 should offer to provide core library services, for an agreed-upon fee, to those EPA Regions and Headquarters offices that no longer have their own libraries.
3. If the EPA Headquarters library, and several Regional libraries, all close by September 30, 2006, the Agency will be faced with a huge challenge to responsibly disperse its collections. The Agency should do whatever it takes to ensure that these collections will continue to be available to both EPA and non-EPA users on an ongoing basis. This might require an investment of funds to hire contractors that can responsibly pack, label, ship and re-catalogue the holdings for each library that closes.
4. The Office of Environmental Information should fund the continued maintenance of the library network's OLS catalogue for FY 2007, and perhaps for a few years after that. This would give the Library Network sufficient time to figure out how to absorb the costs to maintain this electronic catalogue.

Exhibit #3

**EPA FY 2007 LIBRARY PLAN:
National Framework for the Headquarters and
Regional Libraries**

**Office of Environmental Information
U.S. Environmental Protection Agency
August 15, 2006**

EPA FY 2007 Library Plan: National Framework for the Headquarters and Regional Libraries

Introduction

Over the past three years, EPA has been looking at ways to modernize and improve the way it provides library services to its employees and the public. The trend in recent years has shown a shift in the way people request and receive their library services from EPA. With more materials available online and electronically, EPA has found that its employees and the public are finding the materials they need from EPA's Web site and they are requesting more information electronically. In addition, with tighter security at its facilities, the public's physical visits to the EPA libraries have been declining. EPA has also realized that it could gain efficiencies in having its regional libraries work more as a cohesive network with shared functions as opposed to their current operations. These trends all suggested to EPA that it needs to use information technology to improve its delivery of library services, and it needs to streamline the number of physical libraries to gain efficiencies.

In early 2003, at the request of the Assistant Regional Administrators (ARA), the Office of Environmental Information (OEI) conducted a feasibility study of options for future regional library operations. Subsequently, OEI developed two reports—*Business Case for Information Services: EPA's Regional Libraries and Centers*, and *Optional Approaches to U.S. EPA Regional Library Support*. These studies intended to inform the ARAs on their options to support library services in each of the Regions beyond FY2006.

In August 2005, the ARAs formed a Regional Library Network Workgroup Initiative to conduct a study of the OEI report and develop recommendations on ways to maintain an effective Library Network in the event of a reduction to the library support budget. The Workgroup, co-chaired by Regions 8 and 10, involved federal library managers from the Regions and Headquarters. In 2006 EPA received the FY 07 President's Budget, which included a proposed \$2 million reduction to the OEI library budget. This proposed budget reduction accelerated EPA's efforts to develop a plan to modernize its library system. In past years, this budget was allocated to the Headquarters and Regional libraries, which comprise 11 of the 26 libraries in the EPA Network. While this specific budget reduction does not affect the other libraries in the EPA system, such as the Office of Administration and Resource Management (OARM) libraries and the Office of Research and Development's laboratory libraries, EPA recognizes that any reduction in services at some of its libraries will undoubtedly have an impact on the rest of the libraries in the Network. For a list of all the libraries in the EPA Library Network, please see Attachment 3.

To prepare for the budget reduction, EPA established a Library Steering Committee in the fall of 2005 composed of senior managers from EPA's Program Offices and Regions, co-chaired by OEI and Region 4. The goal of this Steering Committee was to develop a new model of providing library services to EPA staff. The Steering Committee reviewed the recommendations from the staff level Regional Library Network Workgroup and it conducted additional analyses. This document—the *EPA FY 2007 Library Plan: National Framework for the Headquarters and Regional Libraries*—is a result of the work of the Steering Committee.

The following is a description of the new model EPA plans to implement to ensure that EPA employees continue to receive quality library services and that the public continues to have access to EPA information. EPA plans to begin transitioning to the new model in Summer 2006 in preparation for the budget reduction at the beginning of the FY 2007 budget cycle in October 2006. In FY 2007, EPA plans to implement a phased approach to disperse and/or dispose of library collections in those libraries that will close access to their physical collections. Attachment 4 contains clarification and additional information on topics covered in this plan.

Library Services for EPA Employees

The new model of providing library services ensures that EPA employees will continue to receive the same quality of library services. While the quality and level of library services will remain the same, employees will receive these services through different and more efficient means. EPA will provide training opportunities and guidance materials to instruct employees on the use of EPA's library services. The new model has three main components:

- **A Coordinated Library Network:** As mentioned above, under EPA's current library model, the Headquarters and Regional libraries work independently. The new model will move the libraries from stand alone operations to a network of coordinated services. While EPA plans to streamline its physical libraries, it will ensure continued access to its collections of unique and valuable EPA documents by creating repository libraries. In addition, EPA is developing Library Centers of Expertise. For example, a library with more expertise in a specific area of reference research will provide that service to employees in other Regions.
- **Electronic Delivery of Services:** EPA is moving to delivering more services online. EPA will work to provide more documents in electronic format; it will maintain the Online Library System so employees can locate documents electronically; and it will maintain the Desktop Subscription services.
- **Maintain Essential Services:** EPA will maintain all essential library services for EPA employees; they will just be delivered in a different way. The following is a list of the essential services EPA employees have today and a description of how they will be delivered under the new model:

Desktop Subscriptions

EPA employees will continue to have access to the full EPA Desktop Library, which brings electronic information sources to all EPA employees through the EPA Intranet. Employees can access current news, journal articles, reports, and reference materials from their desktop. Desktop Subscriptions is a Working Capital Fund Service charged to all desktops.

Interlibrary Loans

EPA employees will continue to have access to the materials they need via Interlibrary Loan (ILL) services. ILL includes the retrieval of internal and

external library collections for EPA patrons. ILL will be provided in the Regions and Headquarters to enable EPA staff and contractors to borrow materials from other libraries. Providers and procedures to obtain this service will vary from Region to Region. If the Region chooses to use another EPA library, such as the libraries of the EPA Office of Administration and Resource Management, to provide interlibrary loan services to their employees, there will be a cost for this service to the Region. Regions who opt to obtain this service from another library will establish a liaison in their Region to manage their ILL requests. All ILL requests will be channeled through the liaison for tracking, quality control, and budgeting purposes. An alternate liaison should be established to provide continuity of operations.

Online Library System (OLS)

EPA employees (and the public) will continue to have access to the Online Library System (OLS). OLS is the backbone of library services at EPA, supporting the Agency's search, circulation, interlibrary loan, cataloging, and library acquisitions functions. In FY 2007, the Office of Environmental Information will fund the maintenance of the OLS. Future funding mechanisms, such as including OLS as part of the EPA Desktop Subscriptions, are being explored.

Reference/Research Services

EPA employees will continue to have access to Reference/Research Services. In many Regions and at Headquarters, the workforce performs most of their own research online. To assist this research, the workforce will continue to have access to the EPA Desktop Library of subscription databases, such as Dialog, Science Direct, and News Bank. For more advanced research, a member of the Regional workforce will be able to contact their Regional or Headquarters liaison, who will forward the request to Research Triangle Park's (RTP) or Cincinnati's reference librarians or a different service provider. Some Regions will maintain limited local research capability and/or offer services on specialized topics, such as business or legal research. For instance, Region 3 and Region 10 have agreed to become a service provider to other Regional offices who need company research information for their enforcement/litigation needs. In all of these cases there will be a cost for the services offered to other Regions.

EPA Library Services for the Public

EPA currently uses many different mechanisms to get information to the public, such as the EPA Web site and response to information requests via phone, e-mail and postal mail. EPA libraries have also played a role in providing public access to environmental information. With tightened security at EPA facilities, there has been a drop in the number of physical walk-ins to EPA's libraries. EPA has also found that most of its requests for information come to the Agency via phone, not walk-ins. Due to these trends, EPA is moving toward providing public access to environmental information through more electronic means. The following is a description of how EPA will provide library services to the public.

Requests for Information Received via Phone, Fax, Email, and Postal Mail

Requests for information from EPA are received by many different organizations in EPA. In some cases the public requests information directly from an EPA library or a request is routed from an EPA program to the library. To ensure that the public's requests are answered in a timely manner, EPA will implement the following:

- Headquarters and all the Regions will have a plan to manage public inquiries that will reflect any changes to their library operations. Many Regions will refer public requests for information to the EPA regional public affairs office or program staff. In addition, EPA will develop an "expert" list to facilitate the referral of inquiries that require more detailed follow-up at the national or regional level.
- EPA will continue to provide answers to commonly asked questions on the EPA Web site, and it will work to expand its Agency-wide knowledge base for direct online access to frequently asked questions (this is an Office of Environmental Information service known as the "Enterprise Customer Service Solution").

Requests for EPA Reports and Documents

For Headquarters and the Regions whose physical libraries are closing, the public will no longer be able to walk into the library to find a report or document, but they will continue to be able to access reports and documents through other means. The following is a description of how EPA plans to ensure that the public continues to have access to EPA reports and documents.

- **Provide documents in electronic format and hardcopy:** The public can currently access over 15,000 documents electronically through the National Environmental Publications Information System (NEPIS). EPA will expand the National Environmental Publications Information System (NEPIS) to become the Agency's electronic archive of published material. See below for details on the plan to expand NEPIS. In addition, EPA will develop procedures to capture and archive new Agency documents electronically at the point of content by working with NEPIS, and cataloging the documents in the Online Library System. The National Center for Environmental Publications and Information (NCEPI) Warehouse responds to requests for the hardcopy documents it holds in its inventory of 4,500 titles. To augment the number of titles available for free distribution to the public in hardcopy, EPA will also implement Print-on-Demand Service for electronic documents (such as DocuTech in Cincinnati). This will expedite the printing of documents for those who request documents in hardcopy.
 - **Digitization Plan:** Agency documents not currently in the EPA National Environmental Publications Information System (NEPIS) database will be sent to Cincinnati for digitization into NEPIS. Unique EPA documents from libraries closing access to their physical space in FY07 will receive first priority for digitization. The current schedule calls for completion of this first phase of the

digitization effort by early Calendar Year 2007. EPA documents in libraries that plan to remain open after FY06 will also be digitized after the materials from closing libraries are finalized. Documents will be tracked during the digitization process to ensure their availability to any requester. Specific procedures for digitizing have been provided to EPA staff.

- **Maintain tools to identify and locate documents:** EPA will continue to maintain the Online Library System (OLS) and support the Online Computer Library Center (OCLC) as tools to identify and locate research reports and other publications. Through the OLS, the public can locate an information source and work with a local or university library to request the document via Interlibrary Loan.
- **Increase utility of public access tools:** EPA will increase the EPA Web site's utility as a key access point for Agency information by promoting gateways such as the "Where You Live" link and "Window to My Environment" as paths to regional information.

Transitioning to the FY 2007 Library Services Model

This section identifies the key activities that will be implemented to ensure a transition to the new model of providing library services. EPA is working with library service providers in the EPA Library Network to put agreements in place to ensure continuous library services for EPA staff and the public. The following describes the steps that the EPA Headquarters and Regional libraries that are closing their physical library space will need to implement to ensure the availability of EPA documents.

Implement a Phased Approach to the Closure of Physical Libraries

EPA will implement a phased approach to the dispersion of the physical libraries in the Regions that choose to downsize or eliminate their collections. EPA is implementing a phased approach to provide time for Regions to complete the actual dispersion/disposal of their collections. In FY 2006, some Regional libraries may begin dispersion of some of their physical collections. Other Regions may put their collections into stasis, i.e., neither fully operational nor fully closed, until funding for dispersion is available. By remaining in stasis temporarily, the collections will still be accessible to EPA staff and through interlibrary loan to other libraries. To preserve accessibility, a minimal level of staffing will be necessary to retrieve, reshelve and mail items as is done in closed stack areas of large university/public libraries. While there may be some disruption to access to some of the Regional collections during this transition time, EPA will work to ensure that there is as much access as possible to EPA collections.

At present three of the ten Regions plan on closing access to their physical library space. These are the libraries in Regions 5, 6, and 7. The Headquarters Library will also close physical access to its collection, but it will remain functioning as one of the three repository libraries (RTP and Cincinnati are the other two). Although the four libraries will not be accessible to walk-ins, they will continue to provide library services such as Interlibrary Loans (ILL) and reference/research to regional and Headquarters staff through agreements with the RTP and/or the Cincinnati

libraries. The public will be able to continue accessing the documents previously held by those closing regional and HQ libraries either electronically from NEPIS or physically via ILL from the repositories.

Standard Review Procedure for Collection Decisions

The EPA Headquarters and Regional libraries will follow a standard procedure for collection dispersal decisions. A standard procedure will ensure that Regional collections are dispersed and/or disposed consistently and that materials that should be kept in the Agency are retained. A key consideration when deciding what needs to be retained is the presence of important historical documents. The libraries will follow a standard procedure for reviewing collections and making determinations on the disposition of these collections. Materials produced by the Agency will be reviewed by each Region's records management program to ascertain whether the library holds convenience copies or original records. In all cases, deaccessioning procedures will be followed to reflect the actual location of materials. Bibliographic records will be updated in OLS for materials that are transferred or disposed. EPA will work to keep coherent collections together, such as reports relating to a specific geographic Region or feature. In the event materials or any other government property are tagged for disposal, libraries will follow the appropriate procedures for this action. A selection and evaluation procedure is attached to this document. Due diligence requires that the materials be offered to appropriate libraries, such as other EPA libraries, the Library of Congress, universities, and state governments, before they can be disposed.

Standard Procedure for Determining Where Retained Collections Should be Housed

EPA Headquarters and its Regions will carefully review their collections to determine whether documents should be retained, sent to a repository or to a library that is remaining open. Once determination is made that specific items or collections should be retained, Regions will choose from the following possible internal dispersion options:

- Send to one of the designated EPA repositories in RTP, Cincinnati, or Headquarters, or send to another EPA library in the Library Network. Procedures and scope of repositories is available at http://intranet.epa.gov/epahqrc/natlbra/repository_procedures.htm
- Offer parts of collections to other libraries in EPA
- Transfer any valuable EPA records to the Regional records management program

For those documents that EPA decides should be dispersed outside of the Agency, EPA will choose from the following external dispersion options:

- Offer parts or collections to the Library of Congress
- Offer parts of collections to other federal, state and local governments for their libraries
- Offer parts of collections to local research universities for their libraries

If none of the libraries above agree to receive the documents tagged for dispersal libraries may offer parts of these collections to Regional programs and staff.

In all cases, deaccessioning procedures must be followed to reflect actual location of materials.

* Any EPA publications of rare, or other distinct value may be provided to OARM in Cincinnati for inclusion into the digital archive of Agency publications maintained by the National Publications Internet Site (NEPIS) database. There is no charge for this service and it will help build a permanent archive of Agency publications for the future.

Conclusion

EPA is committed to providing its employees the library services they need to do their jobs and the public access to the information needed to make informed decisions. The implementation of this plan will take time and resources, and EPA is committed to ensuring an efficient transition into this new model of providing library services.

Attachment 1: Glossary

A library consists of a number of physical parts. Closing a library can mean a number of things, depending on which parts are closing. This glossary is intended to provide a common language for speaking about library closures.

Acquisition – The purchase or receipt of new *materials* into the *physical collection*.

Convenience Copy – A convenience copy of a record is, by definition, a non-record with no evidential value. Convenience copies are often referred to as 'technical reference' because staff keep them at their desks or in the office and refer to them in the performance of their duties. Regional libraries often keep convenience copies of reports and other records for this kind of reference.

Deaccession – The removal of library *materials* from the *physical collection*. Deaccessioning usually occurs when a library weeds out obsolete *materials*, but also occurs when a library is closed. During deaccessioning, *materials* are removed from the library catalog and *disposed* or *dispersed* (transferred to another library) and catalogs are updated to reflect actions taken.

Digitization – The conversion of hard copy documents into digital form.

Disposal – The destruction of library *materials*, following appropriate procedures for disposal of government property.

Dispersion – The transfer of library *materials* to other libraries. A library's *physical collection* may be transferred whole or in parts. *Materials* may be dispersed internally, to other EPA libraries, or to external libraries, such as those of other federal agencies, state governments, or universities.

Materials – May include books, journals, reports, multimedia, and other physical objects. Generally, library materials do not include official *records*, but convenience copies of records may be included.

Patrons – Anyone authorized to use the *materials* and *services* of the library. May include EPA staff and contractors and/or the public.

Physical collection – The physical *materials* that the library provides to *patrons*, such as books, journals, reports, and other materials. A *physical collection* may be frozen, which means no new items are *acquired*. It may also be *disposed* or *dispersed*, meaning destroying or giving away the *materials* in the collection. Physical collections may also be digitized so that they may be accessed electronically. Digitizing a physical collection raises important considerations for copyright, cost, and usability.

Public Information Centers – Space where EPA Regions provide local public access to their documents. This sometimes occurs in the Regional library's *reading room*, but it can also happen in a custom space for that purpose, such as a *public information center*. In some cases the public may be able to view Agency records at these locations.

Reading room – A space open to *patrons*, which provides seating and working areas for using *library materials* and *library services*. A library can exist without a *reading room*, but for patrons to use its physical materials they must check them out of the library and use them back at their own desk. A reading room may serve more than just the library. Often reading rooms in EPA Regions are used as *public information centers*.

Records – The documents that provide necessary and sufficient evidence of the operations, policies, and organization of the Region. The official definition of *records* is provided below. *Records* may be requested by the public under the Freedom of Information Act (FOIA) and may be viewed at a local *public information center*. *Convenience copies* of records may be distributed to allow easy reference to the contents of the record. Convenience copies are not records.

“Records include all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value in them.” (44 U.S.C. Chapter 33, Sec. 3301).

Services – Any service provided by the library. The most common services are answering questions and doing research (called reference), providing access to online databases, and interlibrary loan to retrieve materials from other libraries.

Attachment 2: Library Collection Dispersion Criteria

Introduction

This document has been prepared to assist the libraries in the Regions and Headquarters that choose to reduce, disperse or dispose of their library contents.

No two EPA libraries are the same. They differ in size, target audience, subject focus and depth of collection. The physical collection of an EPA library can contain the following:

- EPA publications in paper, including technical reports, guidance documents, policy statements, directives, records of decision, test methods. Of particular note are publications prepared or sponsored by the individual EPA library's parent Office or Region.
- Journals, primarily scientific, technical and medical, in paper or microform.
- Technical materials published by other federal and state agencies such as geological survey materials.
- Books that have been commercially printed, including textbooks, reference books, directories.
- Law books and regulatory materials such as the Federal Register and the Code of Federal Regulations.
- Microfiche, particularly microfiche of EPA reports acquired from the National Technical Information Service at the US Dept. of Commerce
- Maps
- Abstracts and indexes to the literature such as Pollution Abstracts.
- CDs, DVDs, VHS tapes, etc.
- Risk Management Plans as part of the Offsite Consequence Analysis (OCA) Reading Room function (some Regional Libraries)
- Public dockets such as Regional NPL (National Priority List) Public Dockets (some Regional Libraries)

In addition to their collections, libraries also contain equipment (PCs, microform reader/printers, fiche duplicators, copiers, etc.) and furniture (bookcases, tables, chairs, desks, modular units).

The responsible disposal/dispersion of an EPA library collection is a major project requiring planning, time and resources. The process also requires considerable expertise in a number of areas, particularly library and government property management. *Although it may be tempting to dispose of library materials quickly, the loss of important and unique materials could have serious future consequences if the Agency cannot document scientific findings or enforcement actions.* Additional information on dispersion of materials is found at http://intranet.epa.gov/epahqiro/natlibra/documents/library_procedures_digitization_dispersion_062906.doc

General Considerations

EPA organizations that are eliminating or downsizing their physical libraries should abide by the following:

- Ensure the preservation of EPA's publications (research reports, guidance materials, policy statements, etc.) by:
 1. Maintaining Agency documents that currently exist only in paper until they can be digitized at EPA Cincinnati and added to the National Environmental Publications Information System (NEPIS). NEPIS will be the Agency's electronic document repository.
 2. Dispersing unique EPA materials to the designated document repositories at Headquarters, RTP and Cincinnati.
- Follow all applicable government property rules and regulations.
- Obtain the advice of the Office of General Counsel or the Office of Regional Counsel to avoid the inadvertent dispersal of documents that support rulemaking or litigation.
- Consult EPA staff experts in different disciplines (biology, toxicology, engineering, etc.) for valuable input on what materials to keep locally.
- Update cataloging records for both paper and electronic documents in the OCLC (Online Computer Library Center) database. (Records are downloaded from OCLC to EPA's Online Library System (OLS). This is particularly important during the library transition period as materials are physically moved to other locations and electronic documents are created.
- Discourage the establishment of divisional or branch "mini-libraries."
- Use the Federal Records Centers (FRCs) as appropriate for records storage but not as document repositories.
- Document requests referred to the National Technical Information Service (NTIS) at the US Dept of Commerce does not substitute for the need to preserve EPA materials in-house as stated above.

Dispersion Criteria

Each EPA library will need to make decisions about the materials in their physical collections. There are five basic choices:

- Continue to keep items onsite
- Send paper-only EPA documents to NEPIS for digitization
- Send selected items to a designated EPA repository for retention
- Disperse or donate items to other libraries
- Recycle or destroy items

Choices will be largely based on a particular location's capacity to store and maintain a paper document collection: this capacity will vary significantly. Some locations will continue to support a full collection, others will downsize to a basic (core) collection and still others will eliminate their collections entirely. The following criteria are meant to assist those locations that

are downsizing or eliminating their collections. Consequently, the following “Keep” list is divided into two parts. Part A describes high-priority items: those locations planning to maintain either full or basic (core) collections may choose to keep those materials onsite. Part B discusses material that can be removed from the local site and “kept” by an EPA repository. The overall goal of both parts is to maintain at least one or two copies of valuable publications within the Agency—with access via interlibrary loan—until they can be digitized.

Which Publications to “Keep”

Part A: Types of Materials to Consider for Retention Onsite at Full or Core Collections

- Required for litigation purposes.
- Routinely used by local staff. This applies particularly to those titles not available electronically.
- Paper copies of current journal subscriptions that are being maintained as part of license agreements.
- Relevant to the parent organization’s core mission.
- State or local publications describing environmental conditions within the particular EPA Region, e.g., state geological surveys. These publications often go out-of-print.
- Up-to-date, of current value. Note: Currency of content cannot be judged by the publication date alone.
- Regions should consider keeping a set of Title 40, Code of Federal Regulations (CFRs) from the current year as well as past years to support compliance/enforcement/legal staff. CFRs could be kept in an accessible file room in those locations without a library.
- OCA Reading Rooms and public dockets are legally mandated. It will be necessary to reassign these functions to other EPA organizations.

Part B: Types of Materials to Consider for Dispersion to EPA Repository Libraries

- Unique or rare EPA materials that are not frequently used onsite and are not available electronically. (“Unique” in this context means only one EPA library owns that particular title.) Each library received a list of its unique holdings in August, 2005. It is important that extensive coordination occur so that in cases where several copies of a document exist at least one of these is kept somewhere within the EPA Library Network.
- Out-of-print publications that are useful and are difficult to borrow or replace.
- Materials that have historical significance (e.g., baseline studies) but are not needed by EPA staff at the local site.

Which Publications to Donate/Disperse to Non-EPA Libraries

- Materials that duplicate those held in an EPA library (repository) that has agreed to maintain them permanently.
- Materials that are electronically available on a long-term basis, particularly those included in NEPIS.

- Multiple copies unless there is an overriding reason to keep somewhere at EPA
- Any usable publications that cannot be maintained onsite or at an EPA repository library.
- EPA publications, particularly technical reports, that are not currently in the inventory of the National Technical Information Service (NTIS) can be sent to NTIS. Note that NTIS usually requires that a completed input form (SF 298) accompany the technical report.

Which Publications to Recycle or Destroy

- Anything published commercially that is outdated (old software books, the 2nd edition of a title now in its 9th edition, etc.).
- Items in poor physical condition unless 1) content is rare or 2) the item is the last copy in EPA and is not available elsewhere electronically.
- Items which remain unclaimed when offered to other institutions.
- Microfilm of journals that are available online via open access archives.

Note: It is important to dispose of any library items in an environmentally responsible manner. Additional research on this topic is underway and the results will be distributed.

Microfiche

Since a large number of EPA reports have never been distributed in paper, most EPA libraries have a significant collection of EPA reports on microfiche. Some libraries have other fiche collections as well, e.g., environmental impact statements. Again, availability of the materials in other formats or at other Agency locations should be considered. If a decision is made to disperse the fiche collections, they can be donated or sold as units.

Who Will Accept EPA Library Materials?

Institutions that may accept dispersed materials are listed below in order of preference.

- EPA Repository libraries should be given first choice of to-be-dispersed materials for possible digitization and/or inclusion in the repository collections. More detailed procedures will be forthcoming.
- Other EPA libraries.
- Other federal government agency libraries.
- State Libraries and state environmental agency libraries.
- Colleges and universities with environmental studies curricula.
- University and public libraries that have collections of government documents. Many have been designated as federal depository libraries by the US Government Printing Office. In addition, RTP staff have offered to coordinate EPA's dispersal activities with the Government Printing Office in order to identify and preserve "fugitive" Agency documents for public access.
- Listservers are presently being used successfully by EPA libraries to announce availability of materials. This practice gives libraries on the listservers the chance to choose and request specific items.

Transfer of Surplus Library Material to the Library of Congress

(The following information has been taken from the Library of Congress Web site at:
<http://www.loc.gov/arc/fedsur.html>)

Under longstanding policy, Federal libraries are encouraged, pursuant to 36 CFR 701.33(4), to transfer their surplus library materials to the Library of Congress' Anglo-American Acquisitions Division. Such transferred materials are needed to fill gaps in the Library's holdings, to use for exchanges, to transfer to other Federal agencies, and to make available through LC's surplus book programs to other qualified recipients.

Because of lower staffing levels resulting from budgetary restrictions, LC has narrowed the scope of surplus materials it can accept from other Federal libraries. LC will accept only transfers of surplus and duplicate soft or hard-bound books (monographs, monographic series, annuals, etc.) from Federal agencies and only in the following categories:

Novels

Reference works (e.g. encyclopedias, directories, guides, such as *Encyclopedia of Associations*, *The World of Learning*, *The Statesman's Yearbook*, *Books in Print*, etc.) not older than **three years**

And not older than **five years** in:

Humanities (art, music, belles lettres etc.)

History and area studies

Social sciences (economics, politics, etc.)

Education

Science (agriculture, medicine, computer science, mathematics, physics, etc.)

The Library will no longer accept bound and unbound serials. Federal agencies are asked to dispose of serials in accordance with their regulations governing the disposal of surplus and duplicate materials.

LC requests notification at the earliest possible time of any government libraries that are scheduled to close or be substantially reduced. The Library also requests that shipments of 1,000 pounds or more be cleared in advance.

Agencies' cooperation in adjusting to this revised policy is most appreciated.

For more information, or for questions concerning shipments and the usefulness of an agency's surplus books to the Library of Congress, please contact:

Joseph Mahur

Anglo-American Acquisitions Division (LS/ACQ/ANAD)

Library of Congress

101 Independence Avenue, S.E.

Washington, D.C. 20540-4170

Phone: 202-707-9324 Fax: 202-707-0380

E-mail: jmahur@loc.gov

Attachment 3: List of Libraries in the EPA Network

Headquarters and Regional Libraries:

Headquarters Library - Washington, DC
 Region 1 Library, Boston
 Region 1 RCRA Research Library, Boston
 Region 2 Library, New York City
 Region 3 Regional Center for Environmental Information, Philadelphia
 Region 4 Library, Atlanta
 Region 5 Library, Chicago
 Region 6 Library, Dallas
 Region 7 Information Resource Center, Kansas City
 Region 8 Environmental Information Service Center, Denver
 Region 8 Technical Library, Denver
 Region 9 Environmental Information Center/Library, San Francisco
 Region 10 Library, Seattle

EPA Program Office Libraries

Legislative Reference Library
 Office of General Counsel Law Library
 Office of Prevention, Pesticides and Toxic Substances Chemical Library
 National Enforcement Investigations Center Environmental Forensics Library

Environmental Research Center Libraries:

Office of Administrative and Resource Management (OARM) Library in Research Triangle
 Park, North Carolina
 OARM Library in Cincinnati, OH

Laboratory Libraries

NERL – Atmospheric Sciences Modeling Division Library, RTP, NC
 NERL – Environmental Sciences Division Technical Research Center, Las Vegas, NV
 NERL – Ecosystem Research Division Library, Athens, GA
 NHEERL – Atlantic Ecology Division Library, Narragansett, RI
 NHEERL – Gulf Ecology Division Library, Gulf Breeze, FL
 NHEERL – Mid-continent Ecology Division Library, Duluth, MN
 NHEERL – Western Ecology Division Library, Corvallis, OR
 NRMRL – Ground Water and Ecosystems Restoration Division Library, Ada, OK
 National Vehicle & Fuel Emissions Laboratory Library, Ann Arbor, MI

Attachment 4

Additional information on specific topics

Continuation of the EPA Library Network: The OARM RTP and Cincinnati libraries have agreed to co-lead the Network. They will continue to conduct conference calls used by the Network libraries staff and managers for information sharing, coordination of cross-library efforts, and handle other issues. OEI will continue funding the Library Network listserv.

Continued maintenance and update of OLS: OEI will continue to fund OLS in FY2007. OEI intends to present a proposal to the Working Capital Fund Board to make OLS a WCF service beginning in FY2008. Management of OLS has been transferred to the RTP Library, and all services, including support of the Online Computer Library Center (OCLC), currently available in OLS, will continue. Procedures developed for the digitization and dispersion processes include directions to update OLS records to reflect status of documents.

Funding for NEPIS, the library of digitized EPA documents: At present, NEPIS provides access to over 15,000 EPA documents. The digitization process is proceeding smoothly and has the funding necessary to continue. The goal is to digitize all unique EPA documents with priority being given to those documents held by libraries that are closing their physical space, and once digitized make them available online to all users.

Staff access to Interlibrary Loans (ILL) and how to maintain reciprocity in the ILL process: Regional libraries that are closing will enter into fee-based service agreements with either the Cincinnati or RTP libraries. A liaison at each affected regional and Headquarters location will process requests from the local staff. RTP and Cincinnati libraries will request ILLs for all their patrons (local or at a different location) and will lend in turn to external requesters, therefore maintaining reciprocity.

Staff access to Reference/Research services: Staff served by libraries which are closing access to their physical space will be able to obtain reference/research services from the libraries in RTP or Cincinnati if they are unable to satisfy their needs by accessing the desktop library resources.

Access to professional journals online through Desktop Subscriptions given the reduction in subscriptions to the paper copies due to budget cuts: A survey has just taken place to identify current subscriptions across the Agency and regional and programmatic priorities and plans for next year. This process has informed an ongoing effort to determine where we can gain greater efficiencies through the leveraging of the subscription purchases and the elimination of duplicative subscriptions. This survey is also assisting us in determining needed funding for the Desktop Subscriptions WCF service. The WCF Board has just approved an increase in funding for the Desktop Subscriptions Service Agreement to ensure continuation, in FY2007, of the same level of access to online scientific and research journals as at present.

Training in use of electronic resources: OEI is enhancing an existing set of materials that provide instructions on the use of the Online Library System and of the Desktop Library/Desktop Subscriptions. This online training is available at <http://intranet.epa.gov/epahqirc/ostlibra/training/>. Other libraries in the Network have also developed training and instructional materials on the use of these resources. These materials will be available across the Network.

Maintenance of the Agency-wide knowledge base for direct online access: The Enterprise Customer Service Solution consists of a growing database of frequently-asked questions (FAQ) submitted to several EPA Web sites, including the EPA Home Page. A process is in place to continuously update that knowledge base with the responses written by experts in the various subjects.

Provisions in place to enable people with disabilities to access information: All new electronic and information technology (EIT) products will comply with Section 508 requirements except in situations where exemptions/exclusions to the requirements apply.

Discouraging establishment of divisional or branch mini-libraries: The establishment of mini-libraries is discouraged because that would limit access to the documents in those mini-libraries to only those staff who work in that unit and/or have knowledge of their location. Digitizing those documents and placing them in one of the three EPA repositories would ensure wide access by EPA staff and the public.

Exhibit #4**OECA Position Paper on the 2007 EPA Library Plan**

The Office of Enforcement and Compliance Assurance (OECA) is committed to maintaining information resources to support our enforcement programs and projects. We want to continue to support our enforcement partners and stakeholders by providing information services and materials, but are concerned how this will be accomplished as library support is cut across the Agency.

The plan for library reductions addresses many complex and complicated issues. We have attempted to take the details from the plan and categorize them into over-arching themes or issues and provide examples which illustrate how that issue may impact OECA in "real terms". We have also stated OECA's position on specific topics. Additionally, there was a library network conference call on August 8, 2006 where some of the specifics questions posed by the draft plan were addressed. This paper makes reference to details addressed during that call that are of importance to the OECA position.

The over-arching issues that OECA is concerned with are:

1. Costs and Funding
2. Accessibility of information – Access to Information
3. Timeliness of services

ISSUE 1 - COSTS AND FUNDING

Many of the points put forth in the plan have associated costs which have not been adequately addressed in the plan. These costs are both actual costs, such as paying a vendor for a product or service and costs or increased use/demands on a library, resulting in increased labor costs, both contract and EPA employee hours. Some specific examples of concerns with undefined costs are put forth in the following examples:

A. Cost of digitizing of documents - as put forth on page 5 of the plan, "Agency documents not currently in the EPA National Environmental Publications Information System (NEPIS) database will be sent to Cincinnati for digitization into NEPIS". While OECA supports the concept of digitizing documents, we have many questions that are not answered in the plan. OECA's questions regarding this issue are:

- o Digitizing is a very expensive process, how is this process going to be funded?
- o Will these costs be passed on to OECA?
- o How will these costs be paid by OECA?

OECA's position on digitizing documents - We support the concept of digitizing many of the Agencies documents, however, we firmly believe that a systematic approach be "mapped-out" and procedures defined, including cost management, prior to implementation of the process.

B. Interlibrary Loan Services (ILL) - An interlibrary loan is a reciprocal system of sharing between libraries, usually at low or no cost to the libraries involved. The draft plan addressed substantial changes in these services, many of which imposed fees or had added costs. Currently, the NEIC library participates in ILL services with other libraries at low or no cost to the NEIC library. Initially, the draft plan was very vague on how the ILL fee process would be implemented and OECA had concerns about the impacts and costs of the proposed re-structuring. As of the August 8, 2006 library network conference call, NEIC was verbally assured that the reciprocal ILL arrangement that is currently employed will continue to be available to the NEIC library at no cost from the other Agency libraries that remain open. However, for other OECA employees outside of the NEIC library area, there may be costs associated with getting needed materials where the regional library has closed and therefore is not participating in a reciprocal ILL arrangement. For example, when an OECA employee located within a regional office requests material through an interlibrary loan at the regional library, since that library is closing and can't reciprocate by lending out material, that library or individual will incur a fee for getting the requested information through the ILL system. OECA's questions concerning ILL are:

- o How will OECA/OECA employees not at NEIC pay for the additional fees for ILL materials?
- o How will this system be managed? And by whom?
- o How much will these additional fees be?

OECA's Position on ILL - This plan does not address the specifics of how this "fee system/liaison system" will be managed or how it will be applied to non-reciprocating libraries. OECA has concerns on how the fee system will be structured and implemented. While OECA can appreciate that a true interlibrary loan system is based on reciprocity and understands that if a library is not in the position to lend, then a payment of sorts would be justified. However, we have concerns on the implementation.

C. Desk-top Subscription funding reduction - Although the plan says that staff "will continue to have access to the full EPA Desktop Library", the Agency's license for ScienceDirect for the Desktop Library involves both paper subscriptions and electronic access. Of the hundreds of journals included in the ScienceDirect service, EPA only has full-text electronic access to those journals for which we have also have a paper subscription. As physical libraries close or stop their subscriptions, the impact on electronic licenses (full-text) may be devastating. Without the substantiating scientific information available in current literature, OECA's mission, including supporting civil and criminal litigations and the development of regulations, will be compromised. OECA's questions regarding the Desktop library are:

- o What will the "Full EPA Desk-top Library" contain?
- o What is the FY07 Working Capital Fund rate for this service?

- o Who will fund this service for offices within OECA?
- o How will OECA be assured of continued access to the vital resources needed by OECA employees?

OECA's Position on the Desktop Library - OECA needs assurance of continued access to many of these subscriptions even if the subscription via the Desktop library is gone. We need clarification on the WCF rates.

- D. **The Online Library System (OLS)** is the backbone of the Agency's Library system. OLS is the system which tracks the status of all the libraries' holdings and is the electronic form of a card catalog. This is a crucial service and we need the functionality of OLS to be continued in order to locate materials needed for enforcement. The plan states "Future funding mechanisms....are being explored" At the library network call on August 8, 2006, NEIC was assured that this system will be funded in 2007 by OEL.

OECA's Position on OLS - While OECA is in support of OEL funding OLS in 2007, funding source(s) beyond 2007 need to be identified as soon as possible.

- E. **OECA's (NEIC) library capacity** The NEIC Library is the only specialized environmental forensic library in the Agency. The NEIC library supports enforcement in the regions when there is a need for NEIC's expertise or unique materials, such as standards and industrial process information. Loss of support for enforcement within the regions may cause an overwhelming demand on the small NEIC library by requiring the NEIC library to provide not only unique materials, but also items that the regional libraries currently provide.

OECA's Position on NEIC's Library Capacity - There is no budget available to expand NEIC's library capacity should this increased demand for NEIC library services occur. NEIC is already seeing a slight increase in requests from other regional libraries whose staff/hours are being cut.

ISSUE 2 - ACCESSIBILITY OF INFORMATION / ACCESS TO INFORMATION

Many of the points in the library plan address various aspects of what will happen to collections and documents as regional libraries close. While the plan addresses a phased approach to closing physical libraries, OECA is concerned about the potential loss of valuable information. Additionally, OECA is concerned that the loss of institutional memory as well as the loss of expertise from professional librarians in the regions will hamper OECA's enforcement program. The following examples outline OECA's concerns:

- A. **Dispersal of Collections** – The plan outlines a hierarchy of locations where collections will be sent but does not adequately address the planning process used to determine how a dispersal location will be determined. OECA is also very concerned about the accessibility of third-party data or documentation which OECA may have used or relied upon to form guidance or determinations. For example, Region 5 has already begun dispersal of their collections without these protocols in place. Information from the collections regarding the Great Lakes Initiative or data surrounding human health studies may have been dispersed and OECA and the Agency may not be able to locate this essential information. We must have continued access to supporting information to be able to substantiate and support our findings, determinations, and guidance.

OECA's Position on Dispersal of Collections - OECA needs the information, collections, and data from closing regional libraries that is necessary for enforcement work; particularly industrial process documents, analytical methods, and background documents used to develop OECA guidance and rules to be kept within an Agency collection or library. OECA is seriously concerned that these documents may be distributed without adequate documentation and cataloging and may become virtually lost within the system. OECA needs assurances that this type of information will be maintained within an Agency collection and that these collections will remain cataloged, inventoried, and accessible. Having this data or information offered out to other federal, state, or local libraries, or universities is not an acceptable option for OECA. Prior to a regional collection being dispersed, OECA believes that dispersal protocols must include review by regional enforcement personnel.

- B. **Accessibility of Digitized Information** - The plan currently calls for the digitization of many of the documents from the collections within the libraries that are closing. While OECA supports the concept of digitization, we also have concerns about continued accessibility to original documents after they are digitized and on-line access after a document is digitized. OECA supports the earlier library network position that two copies of the documents being digitized be retained, in separate locations, for disaster recovery purposes.

OECA's Position on Access to Digitized Information - OECA believes that the cataloging of the digitized image needs to be subject to rigorous review and QC to ensure that the image is cataloged and correctly referenced. One small mistake could result in a valuable document being lost for all time.

Issue 3 - TIMELINESS OF SERVICES

The plan stresses that it is committed to providing EPA "employees the library services they need to do their jobs", but does not adequately explain how this will be accomplished if libraries are closed and others have reductions in available services. The plan calls for the cutting of services and reduction of available resources and the overall availability of information to many employees. The following are examples used to highlight the nature of the timeliness issue:

- A. **Timeliness of Service** - If OECA is involved in a civil or criminal litigation and the judge asks for documentation, we can currently rely upon a library to locate the information and have it produced to a court house in a timely manner. Under the cuts called for in the plan, timeliness for such services is not addressed.
 - o How will situations such as this be handled if a regional library is closed?
- B. **Timeliness and ILL within Closed Libraries** - The ILL process for regional and HQ offices with closed libraries as put forward in the current plan presents a real problem in terms of timeliness, especially for enforcement. Many times OECA employees are faced with tight deadlines. If they must use an ill-defined and costly process to obtain the information they need to make their case within tight timeframes, the Agency may be faced with serious ramifications.

OECA's Position on Timeliness - OECA would like the issue of timeliness for accessing information to be addressed and a plan developed for contingency measures to provide emergency access in time-sensitive, critical situations.

Summary

In summary, OECA is concerned that the plan does not adequately address the issues of cost, accessibility, and timeliness. In order to continue to support OECA's mission, our employees need information which is current, timely, correct, and accessible. While we are fully aware of the budget cuts impacting the Agency, OECA needs to ensure that its employees continue to have access to the information that is critical for them to do their jobs and fulfill the Agency mission and protect the American public.

Exhibit #5

Congress of the United States
House of Representatives
Washington, DC 20515

September 19, 2006

The Honorable David M. Walker
 Comptroller General of the United States
 U.S. Government Accountability Office
 441 G Street, NW
 Washington, DC 20548

Dear Mr. Walker:

We are writing to request that the Government Accountability Office (GAO) examine the Administration's plan, incorporated in the President's fiscal year 2007 budget proposal, to cut funding for the Environmental Protection Agency's (EPA) library system by over 30 percent. This budget cut will force EPA to substantially restructure EPA library services by closing some libraries and reducing hours and services in others. We have grave concerns about the effects of this plan on EPA's ability to protect the environment, and we question whether the plan will actually save the government money.

EPA professional staff assert that the proposed cuts to EPA's library system will harm the Agency's ability to carry out its mission and will be especially damaging to EPA's ability to enforce environmental laws. They also fear that, due to inadequate planning and lack of funding for digitizing documents, access to many documents will be temporarily or permanently lost. Additionally, these cuts could deprive the public of access to critical environmental information in many parts of the country.

Background

The President's fiscal year 2007 budget proposal for EPA reduces funding for the EPA library system by two million dollars, a 30 percent cut from previous levels. The decision to target the cut to the 10 Regional libraries and the Headquarters library will result in substantially greater proportional cuts to these libraries and has already resulted in the closure of the Region 5 library. On August 15, EPA's Office of Environmental Information (OEI) issued a plan¹ for a new structure for the EPA library system based on the assumption the budget cut will occur.

The EPA Library Network consists of 27 libraries distributed throughout the country. The libraries serve EPA's 10 regional offices, 2 research centers, 12 research laboratories and EPA Headquarters. EPA's library system also serves the public. The system contains a large collection of unique materials that are not available through other sources. Each regional library primarily serves the region in which it is located and contains specialized materials.

¹ Office of Environmental Information, U.S. EPA. EPA FY 2007 LIBRARY PLAN: National Framework for the Headquarters and Regional Libraries. August 15, 2006.

The Honorable David M. Walker
September 19, 2006

Page 2

relevant to EPA activities in the area, including enforcement actions. Some of the libraries also serve as repositories for materials the Agency is required to make available to the public under various environmental statutes.

Timely access to information is essential to the Agency's work. EPA's scientists, engineers, regulators, and attorneys utilize the libraries' collections and services to assemble the information they need to enforce environmental laws, develop responsible regulation, and conduct environmental assessments and research.

Concerns About the EPA Plan

While the OEI plan is vague on specifics, a key element is its "phased approach to the closure of physical libraries," which suggests that EPA will close a number of its existing libraries. EPA has already identified three libraries to close and has begun implementing the plan by dispersing collections and reducing services, even though Congress has not yet approved EPA's FY 2007 appropriations. The plan aims to continue to provide access to documents electronically, but does not discuss the number of documents that would need to be digitized, the timeframe, or the amount and source of funding that would be necessary to carry this out.

EPA professional staff have raised strong concerns about this plan. The Office of Enforcement and Compliance Assurance (OECA) issued a position paper outlining the office's concerns about the effects of library closures on enforcement efforts.² The OECA paper suggests that EPA is implementing a seriously flawed plan that: (a) may increase costs to the EPA program offices that rely upon the libraries' services; (b) risks losing valuable information; and (c) fails to ensure the availability of information in a timely manner, as is often critical in enforcement efforts. The presidents of 16 local unions representing at least 10,000 EPA employees wrote to Congress to protest the loss of EPA's technical libraries.³ Among other issues, the letter states that, while there will be real losses in information availability, it is not clear that there will be any cost savings.

As the EPA staff note, the estimated savings of \$2 million annually may be illusory and do not appear to be sufficient justification for making information less accessible within the Agency and to the public. A report produced by Stratus Consulting for the EPA Library Network in 2004⁴ paints a very positive picture of EPA's library network and estimates conservatively that EPA's library network has a benefit to cost ratio of over 4:1. This suggests the plan may result in a net cost to the Agency if costs for retrieval of information are shifted to individual program offices or if additional funds are required to maintain availability of documents through intra- or internet access. For example, EPA's libraries contain many documents that have not been

² Office of Enforcement and Compliance Assurance, U. S. EPA, OECA Position Paper on the 2007 EPA Library Plan, August 23, 2006.

³ Letter from Presidents of 16 Local Unions to Senators Conrad Burns and Byron Dorgan, June 29, 2006.

⁴ Office of Environmental Information, U. S. EPA, Business Case for Information Services: EPA's Regional Libraries and Centers, January 2004, EPA 260-R-04-001.

The Honorable David M. Walker
September 19, 2005

Page 3

digitized. It appears that EPA plans to shut libraries first and digitize documents later. It is unclear from the budget proposal or the plan what funds will be allocated to ensuring that paper and microfiche documents will be digitized and made available electronically.

The public expects EPA to fulfill its mission of protecting human health and the environment. The Agency cannot accomplish this without information. EPA needs the information in these libraries and the services of professional librarians to facilitate timely access to this information.

EPA's activities are funded by the public and are designed to serve the public. A shuttered library does not further open and transparent government. It is unclear from the process that has occurred whether EPA at any point solicited comments or opinions from the external users of these library services about their plans to close libraries and to disperse and dispose of their collections.

We fully support the goal of modernizing the management and delivery of information services within the government and to the public. Information and communication technologies provide opportunities for the government to utilize and distribute information more efficiently both internally and externally. Modernization should occur, however, within a framework that ensures continuity in the delivery of service during the modernization process. The result should be enhanced and expanded access to information, not vague promises of future improvements to information services, while real access to information is eliminated without Congressional action.

Therefore, we request that GAO examine the plan for restructuring the EPA library network, its justification, and its implementation. We ask that GAO address the following questions in its examination:

- 1) How will EPA's plan affect the delivery of information services to Agency employees and the public? Will the services to Agency employees and the public be degraded, maintained at current levels, or improved through the implementation of this plan?
- 2) What is the current status of EPA's planned changes to its library system? What changes has EPA already made, and what additional changes are planned? For the libraries in the system that have already been closed, what is the status of their collections?
- 3) What criteria are being used to decide which materials in the EPA collection will be disposed of or dispersed to other locations? Are these criteria appropriate and being implemented in a manner that ensures documents are not lost or inaccessible for an extended period of time?
- 4) What plans have been made and what funds are available to digitize the paper holdings of these libraries? What is the estimated time and expense required to complete this transition? What provisions have been made to ensure these documents are available to Agency employees and the public prior to the time they will be made available in electronic form?

The Honorable David M. Walker
September 19, 2008

Page 4

- 5) What costs are associated with any replacement of library services that are undertaken by individual program offices? Does this plan result in a redistribution of costs from the Office of Environmental Information to other Program Offices?
- 6) What, if any, provisions have been made to ensure that documents required to be available to the public under EPA's statutes (e.g. Superfund) will continue to be accessible as required by law?
- 7) In developing its plan, did EPA solicit input from members of the public that use its library system? If so, what concerns were raised and are they adequately addressed by EPA's plan? Did EPA take environmental justice issues into account in developing the plan to close its libraries?

Please contact Jean Fruci with the Committee on Science staff (202-225-6375), Alexandra Teitz with the Committee on Government Reform staff (202-225-5420), and Lorie Schmidt with the Committee on Energy and Commerce staff (202-225-3400) to discuss in detail the specific scope of work and timeline for completing this request.

Sincerely,



BART GORDON
Ranking Member
Committee on Science



HENRY WAXMAN
Ranking Member
Committee on Government
Reform



JOHN D. DINGELL
Ranking Member
Committee on Energy and
Commerce

Exhibit #6

Congress of the United States
House of Representatives
 Washington, DC 20515

November 30, 2006

The Honorable Stephen Johnson
 Administrator
 U.S. Environmental Protection Agency
 1200 Pennsylvania Avenue, N.W.
 Washington, DC 20460

Dear Administrator Johnson:

We are writing to express our serious concerns over the current implementation of your plan to reorganize the library system of the Environmental Protection Agency (EPA). We understand that EPA is in the process of closing libraries and dispersing and destroying materials. Additionally, the General Services Administration is auctioning off library equipment. These actions are being undertaken in accordance with the budget request the President submitted for fiscal year 2007. Congress, however, has approved neither the President's 2007 budget request nor the library closure. We request that you maintain the status quo of the libraries and their materials while this issue is under investigation and review by Congress.

We also request that EPA brief our staffs and provide a written plan to Congress that includes the schedule and procedures that EPA intends to use to govern the disposition of documents, the consolidation of library services, and the transfer of paper and microfiche documents to electronic forms that will be publicly available. We further request that you ensure that Agency staff compile and maintain records of the location and content of all library material, including materials that have already been dispersed, to ensure it can be retrieved and used by Agency personnel and the public.

Over the past 36 years, EPA's libraries have accumulated a vast and invaluable trove of public health and environmental information, including at least 504,000 books and reports, 3,500 journal titles, 25,000 maps, and 3.6 million information objects on microfilm, according to the report issued in 2004: *Business Case for Information Services: EPA's Regional Libraries and Centers* prepared for the Agency by Stratus Consulting. Each one of EPA's libraries also had information experts who helped EPA staff and the public access and use the Agency's library collection and information held in other library collections outside of the Agency. It now appears that EPA officials are dismantling what is likely one of our country's most comprehensive and accessible collections of environmental materials.

The press has reported on the concerns over the library reorganization plan voiced by EPA professional staff of the Office of Enforcement and Compliance Assurance (OECA), 16 local union Presidents representing EPA employees, and the American Library Association. In response to our request of September 19, 2006, (attached), the Government Accountability Office has initiated an investigation of EPA's plan to close its libraries. Eighteen Senators sent

The Honorable Stephen Johnson
November 30, 2008

Page 2

a letter on November 3, 2008, to leaders of the Senate Appropriations Committee asking them to direct EPA "to restore and maintain public access and onsite library collections and services at EPA's headquarters, regional, laboratory and specialized program libraries while the Agency solicits and considers public input on its plan to drastically cut its library budget and services" (attached). Yet, despite the lack of Congressional approval and the concerns expressed over this plan, your Agency continues to move forward with dismantling the EPA libraries.

It is imperative that the valuable government information maintained by EPA's libraries be preserved. We ask that you please confirm in writing by no later than Monday, December 4, 2008, that the destruction or disposition of all library holdings immediately ceased upon the Agency's receipt of this letter and that all records of library holdings and dispensed materials are being maintained.

Sincerely,



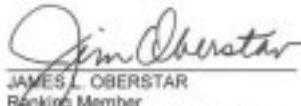
BART GORDON
Ranking Member
Committee on Science



JOHN D. DINGELL
Ranking Member
Committee on Energy and Commerce



HENRY A. WAXMAN
Ranking Member
Committee on Government Reform



JAMES L. OBERSTAR
Ranking Member
Committee on Transportation and
Infrastructure

Enclosures

Exhibit #7



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2007

OFFICE OF
ENVIRONMENTAL INFORMATION

The Honorable Bart Gordon
US House of Representatives
Washington, DC 20515

Dear Congressman Gordon:

Thank you for your letter of November 30, 2006, to Administrator Johnson regarding the Environmental Protection Agency (EPA) library system. The goal of this modernization effort is to provide better access to information to a broader audience by making more information available online and through electronic delivery of library services.

EPA is modernizing its library system to take advantage of the electronic age. The *EPA FY 2007 LIBRARY PLAN: National Framework for Headquarters and Regional Libraries*¹ describes the new model that EPA is implementing to ensure that EPA employees receive high quality efficient library services and the public has enhanced access to EPA information. This report was developed by a steering committee comprised of senior EPA officials and built upon earlier studies done by EPA. The Framework contains criteria, developed in accordance with American Library Association recommendations, to provide for an evaluation of each EPA library collection both to identify and preserve unique EPA documents and to ensure that non-EPA documents needed to support Agency research and not held elsewhere in the library network are preserved.

We have learned that EPA can gain efficiencies and improve services by having its regional libraries work more as a cohesive network with shared functions. The trend in recent years has shown a shift in the way people request and receive information. With more materials available online, EPA has found that its employees and the public are requesting more information electronically. In addition to improved electronic access, the EPA library system continues to maintain a very strong network of physical libraries to provide another avenue for EPA staff and the public to access EPA materials. This includes staff in locations where walk-in access has been affected, as arrangements have been made for service via established libraries within the EPA library network. For the 5 locations where public walk-in service has been discontinued, EPA has already made documents available electronically or by interlibrary loan from one of EPA's other 21 libraries. In addition, the public can continue to request interlibrary loans via any of the over 40,000 libraries in the U.S. and abroad that participate in the Online Computer Library Center, of which EPA is a member. Overall access to library services and

¹ The 2007 National Framework can be accessed at
http://www.epa.gov/oa/oaLib/LibPlan_National_Framework081506final.pdf

information will be enhanced, not limited, with employees and the public receiving these services through more efficient means.

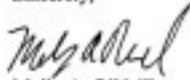
I would like to provide you with an update on the modernization process and further outreach that EPA is conducting to ensure that this process continues to take place in an open and collaborative environment. As you may know, on December 8, 2006, my staff provided Congressional staff a tour of EPA's Headquarters libraries and responded to their questions about the Framework and its implementation. EPA would like to offer an additional session on January 24 from 2:00 to 4:00 p.m. for any interested Congressional staff. Further, EPA staff has been directed to make no changes in public access for 90 days, and to reschedule recycling of materials until after this period. We believe that this will provide additional time for us to conduct briefings or tours requested by Members of Congress and to address any remaining questions that Members may have. I have also instructed EPA management to keep a complete inventory of all materials that they plan to recycle. Let me reassure you that to date we have not recycled or disposed of any unique EPA library materials. All unique EPA documents are being digitized, and at least one hard copy of each document will be maintained in the EPA Library Network. In addition, my staff is having discussions with each EPA Assistant Regional Administrator to ensure they understand and follow these directions and the guidance provided in the Framework.

My staff has also met with representatives of the American Library Association (ALA), the Special Libraries Association (SLA), and the American Association of Law Libraries to further seek input on EPA's library modernization plans. In a recent follow-up meeting with ALA, we discussed how we can work together on an outreach plan to assure that we get input from professionals, the public, and States on EPA's plans. As a key step in this outreach, EPA has accepted ALA's invitation to speak at ALA's midwinter meeting in Seattle later this month.

As you know, some members of the House of Representatives requested that the Government Accountability Office (GAO) initiate an investigation of EPA's plan to implement a new framework for the Library Network. My staff has met with the GAO staff reviewing the implementation of the Library Network Plan and has already shared key documents. I assure you that my staff is cooperating fully with GAO.

Again, thank you for your letter. If you or your staff would like to attend the January 24th tour or if you have further questions, please contact me or your staff may call James Gentry, in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0336.

Sincerely,



Molly A. O'Neill
Assistant Administrator
and Chief Information Officer

Exhibit #8

1

IN THE MATTER OF THE ARBITRATION

Between

EMPLOYER

United States Environmental Protection Agency

And

UNIONAmerican Federation of Government Employees,
AFL-CIO; Council 238

FMCS Case No. 07-50725

GRIEVANCE

Did the Agency Violate the
The Master Collective
Bargaining Agreement as
Well as Applicable Sections
of the Federal Statute,
Title 5 of the U.S.C. For Its
Alleged Failure to Negotiate
With the Union the Closure
of and Reduction of
Services at a Number of
EPA Libraries

OPINION and AWARD**PRELIMINARY INFORMATION****CASE PRESENTATION - APPEARANCES****FOR THE EMPLOYER**

David E. Mick
Human Resources Specialist
Labor / Employee Relations Officer
Human Resources Management Division
Office of Administration & Resources Mgmt.
U.S. EPA / Cincinnati
26 West Martin Luther King Drive
Mail Location - 275
Cincinnati, OH 45268
(513) 569-7818
Mick.David@epa.gov (e-mail)

FOR THE UNION

Steven R. Roy
Executive V.P., Council 238
U.S. EPA, Suite 900
Region 10
Mail Stop UNI - 079
1200 Sixth Avenue
Seattle, WA 98101
(206) 553-6221
(206) 553-1775 (Fax)
roy.steve@epa.gov (e-mail)

CHRONOLOGY OF RELEVANT EVENTS:

EPA's Office of Environmental Information (OEI) Commissioned a Study of EPA Libraries Which Resulted in the Publication, <i>Business Case for Information Services: EPA's Regional Libraries And Centers</i> ; Said Study Was Deemed by EPA as Providing an Opportune Time to Initiate an Agency-Wide Dialogue on the Extent and Nature of Library Services at the Agency; Date <i>Business Case</i> Report Issued	January, 2004
In Its Annual FY 2004 Report, the Agency Reported that Following Completion of the <i>Business Case</i> Report, the EPA Libraries Underwent an Extensive Assessment Process to Identify the Services and Resources of Most Value to the Agency, and to Identify Ways in Which EPA Libraries Can Work Together to Enhance Services and Resources; This Annual Report Titled, <i>The EPA Library Network in 2004</i> , Set Forth a "Preliminary Action Plan" Which Apprised that, EPA's Libraries are Ready to Reinvent Themselves for FY 2006, Noting that Work Was Already Underway; Release Date	Undated
The Agency Issued a Report Titled, <i>Optional Approaches To U.S. EPA Regional Library Support</i> that Apprised Senior and Mid-Level Management About the Issues Involved With Changing the Current Approach to Information Services and Provided Assistant Regional Administrators With Five (5) Service Options for Their Consideration, Accompanied by the Recommendation That Each Region Choose the Appropriate Approach to Meet the Needs of EPA Staff and to Ensure that the Region Could Continue to Assist the General Public in Understanding the Mission of the EPA; Report Dated	June, 2005
In a Report Titled, <i>EPA Library Network: Challenges for FY 2007 and Beyond</i> , Containing the Findings and Recommendations of an EPA Library Network Workgroup, it Was Noted that Although the Demand For Library Services Remains High, EPA's Libraries Have Been Receiving Less Funding Every Year for the Past Four or Five Years and Apprised that the Agency's Draft Budget for FY 2007 Sent to the Office of Management and Budget (OMB) Contained a \$500,000 Budget Reduction for the EPA Headquarters' Library as well as a	November 22, 2005

Proposed \$1.5 Million Reduction in the Regional Support Budget for the Agency's Ten (10) Regions and that this Reduction Specifically Targeted EPA's Regional Libraries, But Noting that Each Region Had Discretion in How It Chose to Spend Its Regional Support Monies; It Was Further Noted that Member Libraries of the EPA Library Network Agree to Study the Effects of a Potentially Large Funding Reduction in the Network's Ability to Continue Providing Core Services to EPA Employees and the General Public, As Well as Maintaining Library Collections; Date Report Issued

By E-Mail Memorandum From Region 5 Management, To AFGE Local 704 (Chicago), Management Apprised It Planned to Enter Into an Agreement With the EPA Office of Administration and Resource Management (OARM) in Cincinnati to Provide Region 5 Employees With Specified Services and Invited Local 704 to Join Them in Pre-Decisional Discussions to Best Meet the Needs of the Agency's Mission and Its Employees; Memorandum Dated

March 14, 2006

By Letter From AFGE Council 238 President, Charles Orzechoskie to Ruben Moreno, EPA Director, Labor and Employee Relations, Orzechoskie Informed the Agency That the Letter Constituted the Union's Demand to Bargain over the Closing and Major Reorganization of The EPA Headquarters' and Regional Libraries Pursuant to Article 45 of the Master Collective Bargaining Agreement; Letter Dated

March 16, 2006

By E-Mail Memorandum, AFGE Local 704 President, John J. O'Grady, Informed Region 5 Labor Relations Specialist Martin Mills that the Memorandum Constituted the Union's Demand to Bargain Locally On Procedures and Appropriate Arrangements Over The Change in Working Conditions [pertaining to the changes then being made and those changes contemplated being made to the Region 5 library] Pursuant to Article 45, Section 2 of the Master Collective Bargaining Agreement; Memorandum Dated

March 28, 2006

In a Draft Report Titled, *EPA FY 2007 Library Plan: National Framework* [Framework Report] the Agency Apprised that in Preparation to Respond to the Proposed Budget Reduction in Funding for Libraries, It Established

June 1, 2006

a Library Steering Committee In the Fall of 2005 Whose Goal it was to Develop a New Model of Providing Library Services to EPA Staff; As Part of Accomplishing This Goal, the Steering Committee Reviewed the Recommendations Made by the Staff Level Regional Library Network Workgroup and, in Addition, It Conducted Additional Analysis; Draft Report Dated

By Memorandum From David E. Mick, EPA Human Resources Specialist (Labor/Employee Relations) to a Number of Recipients Including Steven Roy, AFGE Council 238 Executive Vice-President, Appointed as the Union's Point of Contact for Bargaining on a National Level Over the Closing and Major Reorganization of the EPA Headquarters' and Regional Libraries, Informed that the OEI in Collaboration With The Library Steering Committee Had Produced the Draft Framework Report, Whose Design Was to Convey The New Paradigm the Agency Planned to Deploy So as to Perpetuate High Quality Delivery of Library Services to Employees and the General Public; Mick Further Appraised that the "Framework" Would Vary by Region and at the Headquarters' Level Resulting in the Reason Why "Impact and Implementation" Bargaining of Actual Library Service Changes Would Take Place Separately in the Regions and at Headquarters; the Memorandum then Stated that Before Final Decisions Were Made With Respect to Composition of the "Framework" Document, and thus, Prior to Its Being Sent Out for Further Action in the Regions and at Headquarters, it Was OEI's Desire to Have Input From The Unions Representing the Agency's Bargaining Unit Employees; Memorandum Dated

June 2, 2006

Exchange of E-Mail Memoranda Between Mick and Roy Regarding the Union's Interest in Seeking Negotiations On Behalf of AFGE Locals Over Proposed Regional Library Changes; Memoranda Dated

June 19, 2006

EPA Conducted a Two (2) Week Pilot Program Relative To Implementing Changes in Library Operations; Beginning and Ending Date of Trial Period

June 26, 2006
July 7, 2006

On Behalf of the Agency, Mick, in an E-Mail Memorandum, Sent to Roy Responded to the Union's March 16, 2006 Demand to Bargain on a National Level the Closing and

July 18, 2006

Major Reorganization of the EPA Headquarters' and Regional Libraries Wherein, Mick Stated Among Other Responses, that the Agency Would, at the Regional Level And at the Headquarters Level Relative to the Headquarters' Library, Bargain "Impact and Implementation" Issues Attendant to Library Service Changes Once Local Level Library Service Change Plans are Developed; These Plans Will be Shared With the Unions Once They Are Completed by Management; Mick Apprised that OEI Had a Strong Commitment to Providing Employees Access to Necessary Library Services and that Management Remained Receptive to Informal Consultation With the Unions (Versus Formal Negotiations) On Substantive Library Service Changes; Memorandum Dated

Agency Release of the Final Version of Its Library Plan, With Minor Revisions From Its Draft "Framework" Document, Titled, *EPA FY 2007 Library Plan: National Framework for the Headquarters and Regional Libraries*; Date of Release, On or About

August 15, 2006

On Behalf of AFGE Council 238, Roy Filed a Step 1 Written Grievance Directed to EPA Acting Director, Office of Labor Relations Pursuant to Article 43, Section 7 of the Master Collective Bargaining Agreement Wherein Roy Asserted that Following the Union's March 16, 2006 Demand to Bargain on a National Level Over the Closing and Major Reorganization of the EPA Headquarters' and Regional Libraries, Subsequent Attempts by Him as the Union's Chief Negotiator to Initiate the Negotiation Process Have Been Rebuffed Both Orally and in a Written Memorandum Dated July 18, 2006 By Dave Mick, EPA's Chief Negotiator Wherein He Stated the Agency's Position that, it Is Not Appropriate To Negotiate at the National Level Since the Impacts Will Be at the Libraries in Headquarters and Regional Offices and Those Locations is Where the Negotiations Should Take Place; The Union Posited that the Agency's Position Constituted a Breach of Article 45, Sections 1A and 1B of the Master Collective Bargaining Agreement as well as 5 U.S.C. 7117(a)(1) of the Federal Labor Relations Act; As a Remedy, the Union Requested that the Agency, *Immediately Initiate Negotiations in Good Faith With the Union Over the Procedures and Appropriate Arrangements Concerning the Implementation of the Agency's Closure Plan

August 16, 2006

Or Change in the Operations of the Headquarters and Regional Office Libraries, *Immediately Release the Final Version of the *EPA FY 2007 Library Plan: National Framework*, so that Both The AFGE Council and the Public Can Review It, and *Stop Implementing All Activities Under the Draft Framework Until the Document is Released in Its Final Form; Step 1 Written Grievance Dated^{*}

In Responding to Notification that the Agency Would Be Closing Headquarters' Library Effective October 1, 2006, Council 238 President, Orzechoskie Sent an E-Mail to Mick Wheroin He Referenced Mick's Correspondence to Roy on July 18, 2006, Quoting Mick as Stating, "Once such Details Have Been Determined, They Will Be Shared With the Unions Representing Headquarters Bargaining Unit Employees for Appropriate Impact and Implementation Bargaining", Inquiring of Mick as to When He, on Behalf Of the Agency, Intended to Begin "Impact and Implementation" Bargaining; E-Mail Dated August 24, 2006

The EPA Made Formal Notification in the Federal Register that It Would Close Its Headquarters' Library Effective October 1, 2006; Date of Notice September 20, 2006

The Agency Closed the Washington, D.C. Headquarters' Library and Regions 5 (Chicago), 6 (Dallas), 7 (Kansas City, Ks) and Its Chemical Library Located in Washington, D.C.; Effective Date of Closures^{**} October 1, 2006

In Not Receiving Any Positive Response From Mick In the Period Between October 16, 2006 and October 27, 2006 Through a Number of E-Mail Exchanges Relative to When the Agency Would Enter Into Bargaining Changes in the Agency's Library Operations, Roy Notified Mick, that On Behalf Of the Union, He Was Invoking Arbitration of the August 16, 2006 Grievance Pertaining to the Agency's Failure to Engage in Bargaining Over Changes in Its Library Operations Pursuant to Article 44 of the Master Collective Bargaining Agreement; Date October 17, 2006

^{*} It is noted by the Arbitrator that the relief requested had, in part, been complied with by the Agency sometime within the 11 month period preceding the convening of this September 25, 2007 arbitration.

^{**} Both prior and subsequent to the closures of these five (5) EPA libraries, four (4) other Regional Libraries, at various times, instituted changes in their library operations that entailed reduction in hours and, in some cases, accompanied by a reduction in the number of librarians.

**Notification Made to EPA of the Union's Progressing
The Subject Grievance to Arbitration**

<p>By E-Mail From Mick to Roy, Among Other Responses to the Union's Notification It Was Progressing the Grievance to Arbitration, Mick Indicated He Would Soon be Providing a Counter-Proposal to the Union's March 16, 2006 Demand to Bargain on a National Level Over the Closing and Major Reorganization of the EPA Headquarters' and Regional Libraries, and, in Addition, He Would Be Providing a Counter-Proposal to the Union's Ground Rules; Mick Further Responded by Indicating He Remained Hopeful that the Agency And the Union Could Resolve the Grievance Matter In Bargaining the Issue, Thereby Precluding the Need to Arbitrate the Matter; E-Mail Dated</p>	<p>November 9, 2006</p>
<p>By E-Mail From Roy to Mick, Roy Admonished Mick For Not Responding to any Further Communications After November 9, 2006, Regarding the Agency Entering Into Bargaining and, as well, Entering Into the Process Of Selecting an Arbitrator; Roy Then Requested of Mick that Pursuant to Article 44 of the Master Collective Bargaining Agreement, that He Make the Agency's Selection of an Arbitrator From the Arbitration Panel Submitted to the Parties by the Federal Mediation and Conciliation Service (FMCS); E-Mail Dated</p>	<p>November 22, 2006</p>
<p>In an Unfair Labor Practice (ULP) Complaint Filed With The Federal Labor Relations Authority, AFGE Council 238 Claimed the EPA Had Failed to Respond to Its Requests To Select an Arbitrator to Hear the Grievance Matter It Filed on August 16, 2006 Pursuant to Article 43, Section 7 of the Master Collective Bargaining Agreement, Protesting the Agency's Failure to Bargain Over Changes in Library Operations and Services Envisioned in Its Library Reorganization; Date Union Filed the ULP With the FLRA</p>	<p>February 5, 2007</p>
<p>The EPA Joined the Union in Selecting an Arbitrator to Hear the Union's August 16, 2006 Written Grievance; Date the Parties Selected This Arbitrator</p>	<p>June 25, 2007</p>
<p>By Notice From the Federal Mediation & Conciliation Service (FMCS) Dated June 28, 2007, This Arbitrator</p>	<p>July 2, 2007</p>

Was Notified of His Joint Selection by the Parties (AFGE Council 238 and the EPA) to Hear the Grievance Matter Regarding the Union's Allegation that the Agency Violated the Master Collective Bargaining Agreement By Its Failure to Negotiate the Changes to the Headquarters' and Regional Libraries Asserting that Such Changes Resulted in a Change in Working Conditions; Date FMCS Notice Received in the Arbitrator's Office

FLRA Administrative Law Judge, Richard E. Pearson Ruled that the EPA Had Committed an Act of Bad Faith and "Failed to Comply With Section 7121 of the Federal Service Labor - Management Relations Statute and Thereby Committed an Unfair Labor Practice (ULP) as Alleged, in Violation of Section 7116(a)(1) and (8)"; This Decision in FLRA Case No. CH-CA-07-0425 Was Not Appealed by the Agency; Date FLRA Rendered the Decision

September 25, 2007

Date Arbitration Hearing Held as Scheduled

September 25, 2007

Date Post-Hearing Briefs Received by the Arbitrator

Agency
Union

November 8, 2007
November 13, 2007

By Letter Dated November 14, 2007, the Arbitrator Interchanged the Post-Hearing Briefs and Declared the Case Record In This Arbitration Officially Closed as of The Receipt Date of the Last Post-Hearing Brief; Date Case Record Closed

November 13, 2007

LOCATION OF HEARING

Ralph H. Metcalfe Federal Building
General Services Administration Room 330
77 West Jackson Blvd.
Chicago, Illinois 60604

CONTRACTUAL AUTHORITY TO ARBITRATE

September, 1994 Master Collective Bargaining Agreement (JLEx.1, pp 1-94 plus Appendices)

Article 43, Grievance Procedure, pp.85-88

Article 44, Arbitration, pp 89--90

WITNESSES: (In Order of Respective Appearance)FOR THE AGENCY

Jeff Kelley
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Section - - Office of Public Affairs

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FOR THE UNION

Charles Orzechoskie
President, AFGE Council 238

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Sergeant-at-Arms, Council 238
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EPA Region 6, Dallas

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Civil Investigator
Superfund Division, Region 5

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Regional Sampling Coordinator
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OTHERS IN ATTENDANCE AT HEARINGFOR THE AGENCY

John Breslin
Agency Labor Attorney

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FOR THE UNION

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ISSUE

In accord with Article 44, Section 3 of the Master Collective Bargaining Agreement (Jt.Ex.1), the Parties contractually agree to be bound and to stipulate to the statement of the issue(s) as set forth in the written grievance.

The issues presented by this grievance are as follows (Jt.Ex.24):

- Did the Agency breach Article 45, Section 1A when it failed to negotiate with the Union on the changes to the Headquarters' and Regional libraries resulting in a change in working conditions?
- Did the Agency breach Article 45, Section 1B by failing to negotiate appropriate arrangements with the Union over Management's right to close or change the operations of the Headquarters' and Regional libraries and the impact of that decision which creates an adverse impact on bargaining unit employees?
- Did the Agency violate 5 U.S.C. 7117(a)(1) when it failed to bargain in good faith and/or appropriate arrangements for employees adversely affected by the exercise of any authority under 5 U.S.C. 7106(a) by Agency officials?

RELEVANT DOCUMENTATIONI. APPLICABLE CONTRACT PROVISIONS (Jt.Ex.1)

ARTICLE 43
GRIEVANCE PROCEDURE

* * * *

Section 2. A grievance shall mean any complaint:

* * * *

C. By any employee, the Union or the employer concerning:

1. The effect or interpretation, or claim of breach of the collective bargaining agreement: or
2. Any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment.

* * * *

Grievance of the Parties

- A. Should either Party have a grievance over any matter covered by this Procedure, it shall inform the designated representative of the other Party of the specific nature of the complaint in writing within thirty (30) Calendar days of the date of the act being grieved:
1. A local matter will be filed with the designated local representative of the other Party
 2. A national matter will be filed with the designated national level representative.
- B. Within thirty (30) calendar days after receipt of the written grievance, the receiving party will send a written response stating its position regarding the grievance. If the matter is not resolved, it may be referred to arbitration in accordance with the Arbitration Article.

Section 8. By mutual consent of the Parties, the time limits set forth in this Article may be extended.

ARTICLE 44
ARBITRATION

Section 1. If a grievance processed under this Agreement is not resolved, such grievance may be submitted to arbitration by either the EMPLOYER or the UNION within thirty (30) days after issuance of the final decision.

Section 2. The party desiring to submit the grievance to arbitration shall request the Federal Mediation and Conciliation Service to provide a list of seven (7) impartial persons qualified to act as arbitrators. The parties shall meet within five (5) days after receipt by both parties of the list of arbitrators. If they cannot mutually agree upon one of the listed arbitrators, the parties will each strike three (3) names, and the remaining person will be the duly selected arbitrator. The flipping of a coin or other mutual agreeable means will be used to determine which party will strike the first three (3) names.

Section 3. Issues and charges raised before the arbitrator shall only be those raised at the last stage of the applicable grievance procedure. The arbitrator shall have no authority to alter in any way the terms and conditions of this Agreement, any supplemental agreement or any other condition of employment not properly before him/her.

Section 4. The UNION and the EMPLOYER agree to share equally the arbitrator's fee and expenses.

Section 5. Except in disciplinary and adverse action cases, the party requesting arbitration will make its presentation first in the arbitration proceeding. No later than five (5) work days prior to the arbitration, the parties will make available all evidence and proposed witnesses then within its knowledge to the other party. On the last work day prior to the arbitration, the parties will meet to exchange all evidence and proposed witnesses which they intend to enter into the proceeding. If evidence or information becomes available to a party prior to the start of the proceeding which has not been made available to the other party and it is intended to enter that evidence or information in the arbitration, the other party will be provided the evidence or information immediately. At its discretion, the other party may obtain a postponement of the arbitration for one (1) workday or until the arbitrator's next available date, whichever is less.

Prior to the arbitration hearing, the PARTIES will attempt to stipulate the issue(s) to be arbitrated and any factual matters which would expedite the arbitration. In the event no questions of fact exist, the PARTIES may, by mutual consent forego a formal hearing and present the grievance directly to the arbitrator by individual written submission. The arbitrator is empowered to make a finding and award based on those submissions.

Section 6. The arbitrator will be requested to render his/her decision as quickly as possible, but in any event not later than thirty (30) days after the conclusion of the hearing unless the PARTIES agree to extend the time limit.

Section 8. Local level arbitration decisions will have effect only at the location where the arbitration was held and may not apply to other parts of the Unit unless the PARTIES to this agreement expressly agree in writing.

Section 9. The arbitrator's award shall be binding on the PARTIES; however, either party may file an exception with the Federal Labor Relations Authority under regulations prescribed by the Authority. The filing of an exception to the Authority will serve to automatically stay the implementation of the award until the exception is disposed of under the terms of this section.

ARTICLE 4 RIGHTS OF THE EMPLOYER

Section 1. Nothing in this Agreement shall affect the authority of any management official of the employer: to determine the mission, budget, organization, and internal security practices.

In accordance with applicable laws to: *** to determine the personnel by which agency operations will be conducted; * * *

Nothing in this section shall preclude the Agency and the Union from negotiating:

At the election of the Agency: * * * on the technology, methods, and means of performing work; or, appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

Section 2. The provisions of this Agreement must be applied and interpreted in a manner consistent with the requirements of an effective and efficient Government.

ARTICLE 5 UNION RIGHTS AND DUTIES

* * * *

Section 2. The parties agree to strive to improve communications between Employees and the Employer; to promote and improve Agency efficiency; and to improve the morale of the Employees.

Section 3. Bargaining Unit employees have the right to participate, through the Union, in the formulation and implementation of policies and practices affecting conditions of their employment.

Section 4. The Employer will provide the Union with one copy of all changes to EPA orders, Directives, Manuals, and issuances relating to personnel policies, practices, procedures, and matters affecting working conditions of the Bargaining Units.

* * * *

Section 7. The Union shall have the right and responsibility to present its views to the Employer either orally or in writing.

* * * *

Section 8. The Union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the agency and one or more employees in the unit of their representation concerning * * * any personnel policy or practices or other general conditions of employment.

* * * *

Section 13. Nothing in this Agreement shall be interpreted in a manner that will waive any employee rights under 5 USC 7102 of the Statute.

ARTICLE 45
SUPPLEMENTAL AGREEMENTS AND OTHER NEGOTIATIONS DURING
THE LIFE AND TERM OF THIS AGREEMENT AND DESIGNATED
REPRESENTATIVES OF THE PARTIES

Section 1. The parties agree that the circumstances under which negotiations are appropriate during the life and term of this agreement are included and described below:

- A. At the Union's option, when the Employer, at any level, proposes a change in the substance of an otherwise negotiable personnel policy, practice or working condition not part of this agreement;
- B. At the Union's option, when the Employer, at any level, exercises a management right and the impact of that decision creates adverse impact on bargaining unit employees;
- C. At either option, local level negotiations on matters delegated to the local level by this agreement;
- D. By mutual consent, a reopening of this agreement; and
- E. At a local level, a single supplemental agreement, on matters not set forth in (A) through (D) above by mutual consent of the parties at that local level.

Section 2. In situations (A) and (B) described in Section 1, the Employer will notify the authorized agent of the Union in advance in writing of the proposed change or management decision and its impact. (It is understood that the Agency is not required to negotiate on its decisions which do not adversely affect the bargaining unit.) Employer will notify the authorized agent of its decision and date of implementation. When negotiation is desired, the authorized agent will indicate his/her desire to enter into negotiations by advising the authorized Agency representative in writing within ten (10) days from receipt followed by written proposals within fourteen (14) days from receipt. Upon request, the Employer will explain the proposed change or the management decision and its impact to the designated union representative.

Section 3. In situations (C) and (D), the party desiring negotiations will so indicate by presenting written proposals to the authorized representative of the other party.

Section 4. In situation (E) the party desiring to negotiate will present its proposals in their entirety to the other party. * * * .

Section 5. The parties agree to recognize each other's duly authorized representatives. At each location, the parties shall designate an authorized agent.

At the Agency and national levels, the parties shall designate an authorized representative. All dealings between the parties will take place between the appropriate authorized representatives unless an authorized representative designates another individual to act in his or her place. Understandings reached by unauthorized individuals will have no force and effect unless approved by the authorized representative of the parties. The parties will advise each other of their respective authorized representatives at the local levels at least annually. The parties will notify each other of their authorized Agency or national level representative in writing and such authorization will remain in effect until revoked.

Section 6. Nothing in this Agreement precludes the Employer, at its election, from negotiating on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

Section 7. Where appropriate, the parties will negotiate ground rules for bargaining of issues arising from the operation of this Article which are at the national level.

***.

Section 9. Existing conditions of employment not in conflict with law or provision of this agreement will remain in effect.

II. APPLICABLE FEDERAL STATUTE PROVISIONS (JL Ex. 20)

TITLE 5 OF THE UNITED STATES CODE GOVERNMENT ORGANIZATION AND EMPLOYEES PART III -- EMPLOYEES SUBPART F -- LABOR MANAGEMENT AND EMPLOYEE RELATIONS CHAPTER 71 LABOR - MANAGEMENT RELATIONS

SUBCHAPTER I GENERAL PROVISIONS

Section 7101. Findings and Purpose

(a) The Congress finds that - -

(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them - -

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

(b) It is the purpose of this chapter to prescribe certain rights and obligations of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

* * * *

Section 7106. Management Rights

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency - -

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws - -

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(C) with respect to filling positions, to make selections for appointments from - -

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating -

(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

* * * *

(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

* * * *

Section 7113.

National Consultation Rights

* * * *

(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall - -

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) be permitted reasonable time to present its views and recommendations regarding the changes.

(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization - -

(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

Section 7114.

Representation Rights and Duties

* * * *

(a)(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

* * * *

(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation - -

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

* * * *

(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

* * * *

Section 7116.

Unfair Labor Practices

* * * *

(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency

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* * * *

(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

* * * *

Section 7117. Duty to Bargain in Good Faith; Compelling Need; Duty to Consult

(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government - wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government - wide rule or regulation.

(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government - wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

* * * *

(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government - wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

(2) A labor organization having consultation rights under paragraph (1) of this subsection shall - -

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

BACKGROUND

The United States Environmental Protection Agency, hereinafter Employer, Agency, or EPA is an independent agency of the Executive branch of the Federal Government established December 2, 1970, and charged with the overall mission "to protect human health and the environment."¹ In accord with EPA Order 1110.2 issued December 4, 1970 by the Agency's first National Administrator, William D. Ruckelshaus, establishing the initial organization of EPA, the Order stated in Item #13 that there would be ten (10) regional offices with regional boundaries and headquarters locations prescribed by the Administrator with responsibility for the execution of the regional programs of the Agency to be administered on a decentralized basis but would not include field-based scientific and laboratory facilities carrying out national-level programs.² Currently, the Agency employs 17,000 people across the country, including at Headquarters offices located in Washington, D.C., the ten (10) regional offices (see fn.2), and more than a dozen labs. The Agency's highly educated and technically trained staff is comprised of engineers, scientists, and policy analysts which accounts for more than half of all those employed. Others, comprising a large number of employees are legal, public affairs, financial, information management and computer specialists. Council 238 of the American Federation and Government Employees (AFGE) hereinafter the Union or Council 238, is the exclusive bargaining representative for non-supervisory and non-professional general schedule and wage grade employees employed throughout the Agency's regional and other offices.³ The Agency and the Union together, hereinafter the Parties, have maintained a formal collective bargaining relationship for an undisclosed period of years and currently are governed by the

¹ On July 9, 1970, President Richard M. Nixon in a special message to the Congress, set forth a plan to establish the Environmental Protection Agency acknowledging the concern on the part of the American public the need to know more about the total environment - land, water, and air, noting that at that time, the national government was not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food. Noting further that there existed a number of initiatives dispersed among several existing Federal Agencies under the jurisdiction of several Cabinet Departments that pertained to a number of environmental issues and activities, but whose missions were different and varied from one another, President Nixon asserted that in organizational terms, such initiatives, specifically research, monitoring, standard setting and enforcement activities needed to be pulled together into one Agency. For example, the EPA would be given the functions previously the domain of the Department of Interior's Federal Water Quality Administration as well as the Department's functions with respect to pesticides; functions previously the domain of the Department of Health, Education, and Welfare's National Air Pollution Control Administration as well as the Department's Bureau of Solid Waste Management, its Bureau of Water Hygiene, portions of the functions of its Bureau of Radiological Health of the Environmental Control Administration, and certain functions with respect to pesticides performed by its Food and Drug Administration; among environmental functions performed by other Executive branch departments and agencies identified in this special message. (Source: the EPA's web site, www.epa.gov)

² The ten (10) Regional Offices are as follows: Region 1, Boston; Region 2, New York City; Region 3, Philadelphia; Region 4, Atlanta; Region 5, Chicago; Region 6, Dallas; Region 7, Kansas City; Region 8, Denver; Region 9, San Francisco; Region 10, Seattle. (Source: EPA's web site, epa.gov)

³ The Master Collective Bargaining Agreement under which the subject grievance was brought (JLEx.1) provides for a bargaining unit description of who is included and excluded for each regional office as well as for Research Centers and particular Laboratories. Said bargaining units differ among these facilities.

terms, provisions and working conditions set forth in the September, 1994 Master Collective Bargaining Agreement as extended, hereinafter the Agreement (Jt.Ex.1).

Sometime in 1972, the Agency established a network of libraries to address the information needs of staff and the public. As of October, 2003 this National Library Network was comprised of libraries serving the ten (10) regional offices, two (2) research centers (Research Triangle Park, RTP located in North Carolina and the National Service Center for Environmental Publications, NSCEP located in Cincinnati, Ohio), Twelve (12) research laboratories, and four (4) separate libraries meeting the different needs of EPA staff at Headquarters, in Washington, D.C.(Un.Ex.15).⁴ Additionally, as of October, 2003, these 28 libraries each differed in function, scope, supervisory chain (EAP Department jurisdiction see Un.Ex.16), and amount of resources available; supported both internal staff and public access at varying levels; and each were facing different budgetary and technological changes (Un.Ex.15).

Beginning in FY 2004, EPA's Office of Environmental Information (OEI) commissioned a study of EPA Libraries (Un.Ex.13) which resulted in the publication of the *"Business Case for Information Services: EPA's Regional Libraries and Centers"* (Un.Ex.12).⁵ This report was issued January of 2004 as EPA document 260-R-04-001 and is cited in pertinent part as follows: "The EPA's

⁴ In addition to the library known as the Headquarters' Library, the other three (3) libraries located at Headquarters in Washington, D.C. are: Office of General Counsel Library; Chemical Library, under the jurisdiction of the Office of Prevention, Pesticides, and Toxic Substances (OPPTS); and the Legislative Reference Library, under the jurisdiction of the Office of the Administrator (Un.Ex.16).

⁵ The Agency formed a task force which commenced research for the report sometime in August of 2003, prompted by a request to OEI in February of 2003 to address the future of EPA Libraries, the feasibility of a Network that takes advantage of technology, pools resources and leverages requirements from a variety of users and, the end result of compiling a business case for continuing to support library and information services (It is noted that OEI has jurisdiction over the Headquarters Library and the 10 Regional Libraries). The Study Components comprising this research were the following: "Under the heading of Business Case, to review the current activities being conducted in EPA libraries and assess their value to the institutions they serve; to analyze the cost/benefit of these activities as a basis for developing the strategic direction of the program. "Under the heading of Strategic Plan, develop a vision for information services within the EPA that folds in electronic materials. "Under the heading, Recommendations: review the components in place today and recommend changes, implementation, and areas for further study. This study was prompted by the following "Drivers", to wit: "Information is an asset that needs to be managed strategically; "Direct costs for libraries are increasing; "The physical space requirements need to be reviewed to make the most of the available space for regional operations; "Budgets are susceptible to quick and radical shifts, creating further difficulty to collect and manage information; "Organizations are bearing some costs on their own such as, subscription services, direct acquisition of materials and information and, contracts often include research costs outside of using library to support efforts; "The Agency is shifting away from producing printed materials yet there is no controlled repository of electronic EPA documents. The task force considered the following issues: "Are there services that could be consolidated, reducing duplication in the 10 regional libraries and three (3) centers (RTP, Cincinnati, and HQ)?; "Are there information services being done by government staff that are not inherently governmental ...?; "Can technologies be utilized to improve current processes and enhance Agency-wide capabilities?; "Are there potential funding models that preserve freedom yet build efficiencies?; "What are the Agency requirements for public access and can they be leveraged with internal needs for efficiency?; "Are there partnerships outside of EPA that could provide benefits to the Agency and the Agency's stakeholders? (Un.Ex.14).

network of regional libraries and environmental center libraries provides substantial value to the Agency, its professional staff, stakeholders, and the public. Calculated conservatively, the benefit-to-cost ratio for EPA library services ranges between 2:1 and 5.7:1. Libraries and librarians are nonetheless a significant investment, costing the Agency roughly \$6.2 million dollars annually to operate and maintain. It is an opportune time to initiate an Agency-wide dialogue on the extent and nature of library services at the Agency. * * * Numerous questions can be posed, including the following: *Do individual EPA libraries need to own everything, or could collections or parts of collections be more centralized?; *Is it necessary for all libraries to support all business functions, and if not, which libraries should support which business functions?; *Do all EPA libraries need the same array and level of site support services, and if not, how should site support features be apportioned among the various units?; *Is it necessary that all EPA libraries act as service centers for their respective host unit, and if so, is there a minimum or core level of services that must be available at all sites? (Un.Ex.12).

In its Annual Report for Fiscal Year 2004 (covering the fiscal year October 2003 – September 2004) titled, “The EPA Library Network in 2004” (Un.Ex.13), the Agency noted that, “after the Business Case [report] (Un.Ex.12) was completed, the libraries underwent an extensive assessment process to identify the services and resources that are of most value to the Agency, and to identify ways in which EPA libraries can work together to enhance services and resources * * *”. This Annual Report also set forth a “Preliminary action plan” in which the Agency apprised that, “EPA’s libraries are ready to reinvent themselves for FY2006, noting that work is underway in four (4) key areas as follows: *Centers of Excellence (CoEs): The CoE’s will exploit library strengths where they currently exist through staff skills and available resources. The staff of a CoE may be virtual, allowing employees working in different geographic areas to pool resources to meet a common need. A Business Research Center of Excellence will be formed as a pilot project in FY2006 to provide business and financial research services for all libraries that need this type of information. The Agency identified potential seller members of the Business CoE as Regions 3, 5, 9, and 10 libraries and potential buyers of business research services as Region 8 and Headquarters libraries and others; *Leveraged Buy of Electronic Journals and Resources: Based on results of the information Audit (Appendix C of the Annual Report), the EPA Library Network will identify a core set of highly-valued journals and databases. These items will be purchased online in FY2006 for access by all EPA employees at the desktop, where appropriate, or for access in libraries, where appropriate. The cost of and access to the resources will be apportioned to each library based on the value of that resource to the library; *Gateways to EPA Libraries: Existing gateways to EPA libraries – such as telephone services, online research request forms, and intranet sites – will be evaluated for their value, and new access methods will be considered. A plan to redesign the Library Network web sites will be developed in order to enhance access to resources and services by EPA library patrons; *Collections & Repositories: User survey feedback and library statistics both show that less emphasis is being placed on the maintenance of collections of print materials. Users overwhelmingly want

expanded access to electronic resources, while recognizing the need to maintain at least some access to print materials. To meet this need, EPA libraries will evaluate current distribution of its print collections across the country. Repositories will be established to maintain print materials, and it is expected that other libraries will reduce the size of their print collections. Some libraries may transfer most of their print materials to a repository, becoming an information service center with only a small reference collection for local use (Un.Ex.13).⁶

The Agency issued a report dated June of 2005 (Document EPA 260-R-05-002) titled, "Optional Approaches to U.S. EPA Regional Library Support" (Un.Ex.11) wherein the stated purpose was to inform the senior and mid-level management about the issues involved with changing the current approach to information services in addition to providing Assistant Regional Administrators with five (5) service options to consider after evaluating the costs and value of managing and/or accessing information services against the reality that future requests for services cannot be predicted and that unit costs of services can only be estimated based on a number of factors. The following are the five (5) service options presented to the Assistant Regional Administrators (ARAs):⁷

1. Current Status: The Region chooses to make no changes to the current library operation.
2. Network Node Approach: The Regional library continues to provide its core services on-site, but purchases and/or sells some services from/to the National Library Network
3. Liaison Approach: The Regional library greatly reduces or eliminates its physical collection and the labor needed to maintain it. Many services are purchased from the National Library Network, with a staff person acting as broker for these services.
4. Virtual Services Approach: The Region maintains no library presence on-site but there is a mechanism through which Regional staff can purchase services and resources directly from the National Library Network.

⁶ During the months preceding the close of FY2004 and the issuance of this Annual EPA Library Network report, the Agency acted in January of 2004, to reduce the hours of the Region 6 library to two (2) hours in the morning and two (2) hours in the afternoon. Additionally, it reduced the number of librarians from two (2) to one (1). In response to these reductions in staff and services, a number of the one thousand employees assigned to Region 6, some or all of whom are APGE employees, wrote e-mails protesting these reductions (Un.Ex.4). The record evidence further reflects that during these same months in FY2004, the task force under the direction of Richard Huffine of the OET's Information Access Division continued to meet and conduct activities aimed at exploring possible changes to be made to the Agency's Library Network (Un.Exs.45 & 46).

⁷ It was noted in a subsequent report titled, "EPA Library Network: Challenges for FY2007 and Beyond" issued November 22, 2005 that these five (5) options were predicated on the assumption that the EPA HQ library would continue to support network communications, for instance: *OLS – the network's electronic cataloging system and *Desktop Library linkages through the Intranet (Un.Ex.10).

5. Deferral of Responsibility: The Region ceases all affiliation with the National Library Network, forcing staff to procure information services on their own. This approach is not recommended as it will potentially yield higher costs to the Region overall.

In presenting these five (5) options to the ARAs, the Report prepared by Richard Huffine the Project Lead from the OEI, advised that each Region would need to consider the risks and impacts of changing its model of providing library and information services noting in particular the following impacts:

- Physical Collections: Reducing or eliminating the physical collections at a given Region will need to be approached intelligently to ensure continued access to the legacy of the Agency's literature. Transferring collections to a consolidated location will require an upfront investment but will yield cost savings in the future.
- Services to the Public: Regional libraries play an important role in the Region's duty to provide information to the citizens of the Region. If a Region is choosing the Liaison or Virtual Services approach, inquiries from the public must be redirected to the Region's hotline or another public access unit.
- Several transitional activities will need to be supported by Regions that choose to change their approach to library services, such as, consulting the Regional unions, establishing new operational procedures, and establishing service agreements with the National Library Network.

Additionally, the Report advised that the National Library Network recommends that each Region choose the appropriate approach to meet the needs of EPA staff and to ensure that the Region can continue to assist the general public in understanding the mission of the EPA. Each Region should consider how their selection affects the ability of the Region to support a collection of print resources and determine the appropriate disposition of collections, as necessary, in order to maximize the costs of transfer and processing. The National Library Network will be working with each Region to establish processes for provision of information services electronically, which will enhance the provision of information to EPA staff while minimizing transaction time (Un.Ex.11).

On or about November 22, 2005, the EPA Library Network Workgroup issued their Findings and Recommendations in a Report titled, "EPA Library Network: Challenges for FY2007 and Beyond" in which it noted that although the demand for library services remains high, EPA's libraries have been receiving less funding every year for the past four (4) or five (5) years and, noting that, even though there is no specific line-item budget for EPA libraries, the Agency's budget, especially in the Administrative Support area has consistently experienced reductions. The Report went on to state that the Agency's draft budget for FY2007 that was sent to

the Office of Management and Budget (OMB) contained a \$500,000 [half a million dollars] budget reduction for the EPA Headquarters Library and for Library Network coordination projects, both of which are managed by the EPA's OEL.⁸ In addition to this reduction, the Report stated that OEI had also proposed a \$1.5 million dollar reduction in the regional support budget for the Agency's ten (10) Regions and, that this reduction specifically targeted EPA's Regional libraries although further noting that each Region has discretion in how they choose to spend their Regional support monies. However, the Report noted, as of FY2006, the regional support budgets had been restructured in such a way that the Regions had less flexibility than they once had to move monies and, as a result, the ten (10) Regions might have limited options as to how they could absorb their share of the \$1.5 million dollar reduction thus leaving them with the choice of having to reduce the funding for their libraries. Against this background, it was noted that member libraries of the EPA Library Network agreed to study the effects of a potentially large funding reduction on the network's ability to continue providing core services to EPA employees and the general public, as well as, maintaining library collections. One among the findings of this study based on statistical data from usage of core services in FY2005 was that EPA Regional employees depend on their libraries for the following core services: (1) Find the latest information on health risks associated with chemical substances; (2) Locate the latest information on new environmental technologies; (3) Prepare scientific documentation to justify EPA's position on developing new regulations; and (4) Provide documentation for enforcement cases. From this finding, the study asserted that "these [core] services are extremely important, perhaps essential, in helping EPA staff perform the Agency's mission." In an attempt to assess the possible effect the FY2007 budget reductions would have on the EPA's Library Network's ability to provide core services, the study formulated a hypothetical scenario whereby each of the ten (10) Regions would absorb an equal share of the proposed total reduction of \$1.5 million dollars, that is, each Region's library budget would sustain an actual cut of \$150,000 dollars. Based on this hypothetical, the study noted that six (6) of the ten (10) Regions indicated they might either close their doors, or reduce their staffing, services, and hours. With regard to contractor staffing, the study noted that in FY2005, there were just over 21 such staff persons throughout the ten (10) Regions and that a \$150,000 dollar reduction in their library budget could result in a cut in contractor staff by as much as one-third. Based on such a reduction of contractor staff, the study asserted that given the large number of library service requests the Regional Libraries receive that it was unlikely that all of these requests would be able to be handled by the Library Network's remaining library staff in FY2007.

⁸ The Report noted this reduction of \$500,000 equaled one-hundred percent (100%) of the EPA's Headquarters library's budget meaning that without another source of funding, the HQ's library would close. Additionally, said reduction meant there would be no funding available to maintain the OLS electronic catalogue of EPA library holdings or the Desktop Library for access to commercial journals and databases (see fn. 7, *supra*). It is noted that this reduction in funds left unaffected the other three (3) libraries located at the Washington, D.C. Headquarters location, specifically, the Legislative Library, the Office of the General Counsel Library, and the Chemical Library (see fn. 4, *supra*).

Based on the foregoing analysis of the impact of such a reduction in their library budget, the study set forth options available to the Regions depending on whether they elected to close their libraries or to keep their libraries open. For those Regions that elected to close their libraries the study set forth the following broad options:

1. Discontinue support of all library core services, thereby eliminating all library resources for their Regional staff;⁹
2. Purchase core services from another library;
3. EPA libraries that sell services may, at their discretion, in addition to "per use" charges to purchasing libraries, pass on other costs to their customers.

For those Regions that elected to keep their libraries open, the study set forth the following broad options:

1. Close their physical libraries and disperse their physical collections, but retain library contractor staff to provide core services for their Regional staff;
2. Retain both library staff and their physical collection; and provide core services for their Regional staff only (and perhaps non-EPA users within their region);
3. Maintain their library and sell services to EPA offices that no longer have a library.¹⁰

Based on their findings, the workgroup that conducted this study made the following recommendations:

1. * * * Any Region that closes its library should plan to set aside funds to pay another EPA library in the network to provide these services.
2. Some EPA libraries that remain open in FY2007 should offer to provide core library services, for an agreed upon fee, to those EPA Regions and Headquarters offices that no longer have their own libraries.

⁹ The study asserted this was not a good option for any EPA Regional office as the statistical data clearly showed that EPA's professional staff rely on library core services to accomplish their work. Failing to provide access to library core services could, the study noted, adversely affect Regional staff persons' ability to function. As a result, the study workgroup stated that it did not consider this option any further (Un.Ex.10).

¹⁰ The study noted that in addition to these three (3) options, Region 4 was then exploring other possibilities, including developing partnerships with educational institutions and other Federal agencies that have a similar mission. The study mused that such a unique arrangement may be mutually beneficial to the agencies involved in that they could share the costs of providing services.

3. If the EPA Headquarters library, and several Regional libraries, all close by September 30, 2006, the Agency will be faced with a huge challenge to responsibly disperse its collections. The Agency should do whatever it takes to ensure that these collections will continue to be available to both EPA and non-EPA users on an ongoing basis. This might require an investment of funds to hire contractors that can responsibly pack, label, ship and re-catalogue the holdings for each library that closes.
4. The Office of Environmental Information (OEI) should fund the continued maintenance of the library network's OLS catalogue for FY2007, and perhaps for a few years after that. This would give the Library Network sufficient time to figure out how to absorb the costs to maintain this electronic catalogue.¹¹

As anticipated by the EPA's Library Network Workgroup in its November 22, 2005 Findings and Recommendations report (Un.Ex.10), the President's 2007 Budget Request submitted to Congress included a proposed two million dollar (\$2,000,000) reduction in library services at the Agency. Also, as indicated in said report, this reduction envisioned impacting the Headquarters library and the ten (10) Regional

¹¹ The Arbitrator notes that prior to November 22, 2005, the date the Library Network Workgroup released its study Findings and Recommendations, the Workgroup had produced a draft of its study which it released to the Regions for the purpose of soliciting their input which was then recorded in a document titled, "Consolidated Regional Comments on Libraries" as of July 25, 2005, four (4) months prior to the release date of its final study (This document was also part of Union Exhibit 10). As examples of comments from just two (2) Regions, the following is noted, to wit: Region 5 – R5 has already made substantial changes to its library in response to FY'05 budget cuts. For FY'06, the Region is planning to participate in the collaborative Library network, but has only just begun to discuss at what capacity – probably basic or virtual services; Region 8 – R8 is still evaluating the details of both the OEI Library report and the concept of establishing a Library network among the 10 regions. We have had a number of discussions with OEI, and as a general proposition, support continuing to gather information and develop the concept. Nevertheless, we have a number of questions and concerns that we hope can be answered and addressed before we can fully commit to the proposition. The R8 Technical Library inseparably serves both EPA staff and the general public. The location and nature of our new building will require that we continue this approach. For this reason, R8 is committed to maintaining a physical library with qualified staff, access to a robust collection, research capability, and rapid access to electronic information services and resources. We would need to be assured that participation in the network would allow us to maintain current, if not enhanced levels of these services. Given . . . the optional approaches for EPA regional libraries, R8 would likely participate in a "network node" approach. We could consider maintaining a Center of Excellence (CoE) for regional priority subject matters Of course we would want to be assured that the Library network as a composite, including HQ libraries, would provide sufficient access, services and information in the remaining needed scientific and programmatic areas and subject matters. Our participation and the approach that we would select would depend on appropriate levels of funding, support, and clarification on how the "market-based" exchange would operate. We would need to be convinced that anticipated efficiencies and cost savings can actually be realized, and allow us to maintain, if not enhance, current service levels. We believe that the costs associated with the current operation of the R8 library are in actuality closer to one half of those reflected in the report. Nevertheless, we expect that given our future physical infrastructure, public access requirements, and needed research capability, we would require funding at or near our current levels. In light of the size of the disinvestments in library support being contemplated as part of the FY'07 prioritization exercise, we have significant question about how minimal levels of service can be maintained, whether the cost savings and efficiencies in the proposed network would make up for any reduction or even allow the proposed system to operate (Un.Ex.10).

libraries only, leaving the budgets of the remaining fifteen (15) libraries in the EPA Library Network unaffected.¹² This proposed FY2007 budget reduction in EPA library funding resulted in a number of protests by various interested parties. For example, an organization known as Public Employees for Environmental Responsibility (PEER) issued a News Release dated February 10, 2006 (Un.Ex.32) under the headline, BUSH AXING LIBRARIES WHILE PUSHING FOR MORE RESEARCH based on internal Agency documents, claimed that the slated reduction of two million dollars of a total library budget of 2.5 million dollars was slated to shut down its network of libraries that serve its own scientists as well as the public and, in addition, the EPA would pull the plug on its electronic catalogue which tracks tens of thousands of unique documents and research studies that are available nowhere else. This News Release further claimed that the EPA currently operated a network of 27 libraries operating out of its D.C. Headquarters and ten (10) regional offices across the country and that the size of the budget cut in library funds would force the Headquarters library and most of the regional libraries to shut their doors and cease operations.¹³ This News Release ended with a quote from PEER Executive Director Jeff Ruch who stated, "Access to information is one of the best tools we have for protecting the environment and that the cuts were the epitome of penny wise and pound foolish. Closing the EPA libraries actually threatens to subtract from the sum total of human knowledge." As another example protesting the proposed reduction in library funds for the EPA, a joint letter by four (4) national library associations dated February 24, 2006 (Un.Ex.23) was sent to Congressman, Charles H. Taylor, then Chairman and Congressman Norman D. Hicks, then Ranking Member respectively of the Subcommittee on Interior, Environment, and Related Agencies of the House Committee on Appropriations.¹⁴ The letter stated that the four (4) library associations opposed the proposed \$2.5 million dollar cut in the EPA FY2007 budget as it would likely result in the closure of the Headquarters Library as well as many of its 27 regional and laboratory libraries (see fn 13, *supra*). Moreover, the cuts would put the EPA libraries' collections and services at risk and would seriously harm the public's ability to access the Agency's valuable resources. Other contentions expressed in their collective opposition were as follows: "In eliminating many of its libraries, EPA's leadership is making it more difficult for the Agency's policymakers and the public

¹² The fact that the other fifteen (15) libraries in the EPA Network would not be affected by the budget reduction was confirmed in the EPA's June 1, 2006 Draft Report, *EPA FY 2007 Library Plan: National Framework* (Agency Ex.8).

¹³ Aside from its inflammatory tone and inaccurate speculation, it is noted that at this point in time, the number of libraries comprising the EPA's Library Network was 26, not 27 (see Un.Ex.16).

¹⁴ These four (4) library associations were: American Association of Law Libraries; American Library Association; Association of Research Libraries; and Special Libraries Association. The letter informed the two Congressmen that together, their four (4) associations represented over 139,000 libraries throughout the United States and the millions of library patrons who use their facilities and services. Additionally, the letter informed that the four (4) library associations work collaboratively on a host of important policy issues that support the Nation's libraries and promote access to information for creative, research, and educational uses. The letter further apprised that the associations' members know first hand how important the EPA library collections and services are to the American public. Copies of this joint letter were also sent to Stephen L. Johnson, the Administrator of the EPA and Linda Travers, EPA Acting Assistant Administrator and Chief Information Officer.

to leverage the extensive knowledge found in high quality, accurate information to make important decisions on our Nation's environment, potentially compromising the public's health; *The four (4) associations lamented that the findings, recommendations, and action plans set forth in three (3) reports, to wit, *Business Case for Information Services: EPA's Regional Libraries and Centers* (January 2004, Un.Ex.12); *Transforming EPA Libraries: Creating a national capacity for information management and retrieval* (June 2004); and *EPA Library Network: Challenges for FY 2007 and Beyond* (November 2005, Un.Ex.10), had been all but ignored by the Agency as they provided new models for information services to reduce duplication, cut costs and improve the national capability of the EPA; and, *The Associations warned that if the cuts in library funding were implemented, they would severely weaken or eliminate public access to the EPA's scientific and technical information resources as well as the expertise of the information professionals who know how to identify and analyze them. In conclusion, the Associations urged the Subcommittee to restore the \$2.5 million dollars needed for the EPA libraries to continue to operate at the same level in FY2007 and to require the EPA to develop an innovative information management strategy for the 21st Century that provides for continued public access to the collections and services of EPA Libraries.¹⁵

The record evidence reflects however, that the four (4) Library Associations' contention that the Agency had all but ignored its previous three (3) studies cited hereinabove that provided new models for information services to reduce duplication, cut costs and improve the national capability of the EPA was both mistaken and inaccurate. In its Draft Report dated June 1, 2006 titled, *EPA FY 2007 Library Plan: National Framework* (Ag.Ex.8), the Agency noted in its Introduction of this report the following: "To prepare for the budget reduction, EPA established a Library Steering Committee in the fall of 2005 composed of senior managers from EPA's Program Offices and Regions, co-chaired by OEI and Region 4. The goal of this Steering Committee was to develop a new model of providing library services to EPA staff. The Steering Committee reviewed the recommendations from the staff level Regional Library Network Workgroup and it conducted additional analyses."

Subsequent to the establishment of the Steering Committee but prior to the release of its June 1, 2006 Draft Report, Region 5 began making preparations to respond to the anticipated forthcoming budget cuts.¹⁶ In March of 2006, Region 5 Management sent two (2) Memos to "All Region 5 Employees" wherein it apprised that the coming reduction in library funds in the amount of \$150,000 dollars, which constituted approximately ninety percent (90%) of its total library budget would

¹⁵ The Associations also requested at the end of their joint letter that their statement as set forth in the letter be included as part of the March 2, 2006 hearing record on the EPA's FY2007 appropriations.

¹⁶ It is recalled that in FY 2005, Region 5 effected "substantial changes to its library as a result of budget cuts in that fiscal year (see fn. 11, *supra*).

require closing its Regional Library.¹⁷ In its first March Memo (Ag.Ex.1), the Agency informed the employees that the Region was exploring options to obtain library services from other EPA libraries and assured them they would continue to have on-line access to key journals and publications through the EPA Desktop Library(link) and to expect they would have access to interlibrary loans and reference services through another EPA library. Additionally, staff and the public would continue to have available to them, the On-line Library System(link) (OLS) catalogue of all the holdings in EPA's libraries. This Memo assured employees that Region 5 Management was committed to providing staff with access to the library services they need to carry out the Agency's mission-critical functions. Management also apprised the employees they were aware of the impact the coming changes would have on them and that they would be meeting with AFGE Local 704 representatives to discuss the changes. The second March Memo bearing the date of March 13, 2006 (Un.Ex.39) essentially provided the same information as the first Memo but with the addition of the following: "We have compiled significant information regarding how our library is presently used. The highest priority uses have been the online library system, interlibrary loans and reference services. Region 5 employees will continue to have online access to key journals and publications through the EPA Desktop Library(link) and we expect we will have access to interlibrary loans and reference services through another EPA library." In an e-mail Memo dated March 14, 2006 from Region 5 Management to AFGE Local 704 (Ag.Ex.2), Management apprised it planned to enter into an agreement with the Office of Administration and Resources Management (OARM) in Cincinnati to provide Region 5 employees with the following services, to wit: *Full EPA Desktop Library Access; *Interlibrary Loans; *Online Library System; *Reference Searches; and *Reception, and that it wished to invite AFGE, Local 704 to join them in pre-decisional discussions to best meet the needs of the Agency's mission and its employees.

Just two (2) days after Region 5 Management invited AFGE Local 704 to join them in pre-decisional discussions regarding the planned closure of its Regional Library, Charles Orzechoskie, President of AFGE Council 238 encompassing all AFGE locals representing EPA bargaining unit members, by letter dated March 16, 2006, and sent to EPA Director of Labor and Employee Relations, Ruben Moreno at Washington, D.C. Headquarters (Jt.Ex.1A), apprised the Union was Demanding to bargain over the closing and major reorganization of the EPA Headquarter's and Regional libraries pursuant to Article 45, the Supplemental Agreements and Other Negotiations ...clause of the 1994 Master Collective Bargaining Agreement (Jt.Ex.1). In this written Demand to Bargain, Orzechoskie referenced the March 13, 2006 Memo to "All Region 5 Employees" sent by Region 5 Assistant Regional Administrator, Tom Skinner alleging that this Memo revealed that no provision has been made to provide core library services to EPA Region 5 scientists once the

¹⁷ According to another EPA generated document sent by e-mail to the Union dated March 14, 2006 (Ag.Ex.2), Region 5's FY2005 library funding had been \$157,000 dollars. Thus a reduction of 150,000 dollars in Region 5's FY2007 budget amounted to a 95.5% cut in its library funds from its FY2005 budget and the slightly less percentage cut of around 90% from its FY2006 budget.

library closes and that no mention is made as to the responsible dispersal of the EPA Region 5 library collection. Orzechoskie also referenced a Memo dated March 9, 2006 from Region 6 Assistant Administrator for Management, Lynda F. Carroll and sent to Forrest John, President of AFGE Local 1003 apprising that Region 6's library would be closing effective on the close of business September 30, 2006. In noting that the EPA Headquarter's library would be closing, Orzechoskie asserted that no mention has been made as to how said library's collection would be dispersed and no arrangements have been made to ensure that EPA HQ bargaining unit members will continue to have access to core library services. Orzechoskie further noted that a "library steering committee" had been formed and that said committee would be making decisions regarding the closure of EPA Regional libraries across the country but that these decisions were being made without proper consideration of how the EPA scientists would be receiving high-quality core library services. Furthermore, Orzechoskie asserted, these decisions were being made without adequate consideration of ensuring that AFGE Council 238 Bargaining Unit employees will have ongoing access to the technical studies, reports and other documents that EPA has produced in the past. In accord with its Demand to Bargain pursuant to Article 45, Section 2, Orzechoskie set forth the following requests, to wit:

- (1) In order to protect the Union's right to negotiate, AFGE Council 238 requests that the Agency maintain the status quo;
- (2) AFGE Council 238 invokes its right to ask EPA management to cease its discussions of EPA library closures for FY 2007, and reinstate the \$2 million dollar budget cut to the libraries;
- (3) AFGE Council 238 invokes its right to ask EPA management to continue its "library steering committee" discussions, but include AFGE representatives on that steering committee. The committee will continue to explore possible "efficiencies" within the EPA library network. With due consideration of how to provide core library services or ongoing access to EPA's library collections, and AFGE Council 238 and management will work together to develop a Library Network plan for FY 2008;
- (4) While it is not clear to AFGE Council 238 the impacts on the AFGE bargaining unit will be based upon what is being proposed by the EPA at this time, AFGE Council 238 is hereby notifying you of our intent to bargain over procedures and appropriate arrangements. In accordance with Article 45 Section 2, AFGE Council 238 requests that the EPA explain the proposed changes and their impact on the AFGE bargaining unit to the designated Union representative. Once the EPA has explained the proposed change and its impact on the AFGE bargaining unit, AFGE Council 238 will submit its counter-proposal on procedures and appropriate arrangements.

Orzechoskie then ended this Demand to Bargain letter by informing Director, Moreno that the Union's Chief Negotiator for this effort was Maureen Kiely of AFGE Local 3607, EPA Region 8.¹⁸

By Memo dated March 27, 2006, directed to a number of AFGE Region 5 Bargaining Unit members, John J. O'Grady, President of AFGE Local 704 asked for a volunteer to represent the Local in discussion with Region 5 Management regarding the pending Region 5 library closure (Ag.Ex.5). On the following day, March 28, 2006, O'Grady by Memo sent to Region 5 Labor Relations Specialist, Martin Mills, a Demand to Bargain locally on procedures and appropriate arrangements in accord with Article 45 of the Master Collective Bargaining Agreement (Jt.Ex.1) over the change in working conditions, meaning the forthcoming changes to Region 5's library. As in Orzechoskie's Demand to Bargain impending changes to the ten (10) Regional libraries and the Headquarters' Library as a result of the budgetary cut in library funding for FY 2007 on a national level, O'Grady requested in conjunction with his Demand to Bargain on a local level that Region 5 Management provide an adequate explanation of its decision to close Region 5's library and its impact upon the bargaining unit employees; and that upon receipt of such explanation, he would be prepared to submit a proposal addressing the procedures and appropriate arrangements. O'Grady ended this Demand to Bargain with suggesting convening a meeting between himself, Martin Mills to whom he directed the Demand to Bargain, Jeff Kelley, and Cheryl Allen, a Local 704 bargaining unit member in order to begin the process (Jt.Ex.21).

By letter dated March 30, 2006, AFGE President of Local 3631 Alan Hollis set forth his concerns regarding reduced funding of EPA libraries in a letter directed to Region 3 Administrator, Donald Welsh (Jt.Ex.14). Hollis stated among other things that the EPA libraries are assets that are essential to the performance of EPA's mission and that among these vital assets were: *Physical and Electronic Collections; and *Services, which include performing searches, obtaining materials through interlibrary loans, contents mailings and alerts on the availability of new research and guidance, and updating, organizing, and maintaining the physical and electronic collections. Hollis noted these assets were used to: *support and justify Agency decisions; *develop new projects; *keep employees knowledgeable about new and emerging techniques, research, results, regulations, science, etc.; *assess risks and evaluate cleanup goals and alternatives; *perform acquisition market research and contractor responsibility determinations; *recover costs; and *educate stakeholders. Hollis asserted in closing that, closure of the EPA libraries would cost the Agency time and money, reducing its efficiency and the soundness of its decisions. It would place unnecessary obstacles in the paths of both employees and stakeholders by making information more difficult to find. It would be contrary to

¹⁸ As a point of interest, in a subsequent reproduction of this "Demand to Bargain" attached to an e-mail sent by Steve Roy to David Mick dated June 19, 2006 (Jt.Ex.8), the Demand letter indicated that Steve Roy of Local 1110, EPA Region 10 would be the Chief Negotiator for this effort, meaning bargaining the library changes on a National level with no mention or reference to Maureen Kiely as the designated Chief Negotiator.

both the Administrator's Action Plan which states, "EPA will continue to use the best available scientific information as the basis of its decision making and, EPA will ...continue to ensure that its workforce has the tools and skills for new areas of scientific inquiry . . . and the President's Management Agenda which has included such goals as; create easy-to-find single points of access to government services for individuals, share information more quickly and conveniently between the federal and state, local, and tribal governments, reduce the expense and difficulty of doing business with the government, provide citizens with readier access to government service, and make government more transparent and accountable.

In an e-mail Memorandum sent May 15, 2006 from Labor/Employee Relations Officer, David Mick to Mike Flynn, Director, Office of Information Analysis & Access, OEI, Mick apprised Flynn that he and Ruben Moreno, Director Labor and Employee Relations, EPA Headquarters spoke with Steve Roy, AFGE Local Union President, Region 10 on May 12, 2006 (Friday) regarding Roy's concern that AFGE was being left out of the discussion, nationally, on the issue of library service changes.¹⁸ Mick related to Flynn that he and Moreno told Roy it was OEI's plan to share the "Framework/Guiding Principles" document for Regional & HQ library service changes with the unions so as to obtain their feedback and that OEI was open to having a teleconference with the unions so as to allow for real-time dialogue on the document once it was made available. Mick apprised that while Roy indicated he was amenable to this plan, he indicated that AFGE would like to have an opportunity to provide input to the "Framework" document prior to a "final" version being sent to the field and that if the Agency was unwilling to do this, AFGE would consider filing an Unfair Labor Practice (ULP) charge. Mick apprised Flynn he told Roy he would raise AFGE's interest with him and would get back to him (Roy) as soon as he received a response. Mick advised Flynn that if he were inclined to allow AFGE to have input to the "Framework" document before it went out to the field, it would make sense to allow the other unions representing EPA bargaining unit employees to have the same opportunity (Jt.Ex.22). In an e-mail response sent May 16, 2006, Flynn apprised Mick that the Agency planned to give the unions an opportunity to review the draft "Framework" document and that he thought it would be ready the following week to send to the unions and to set up a briefing time (Jt.Ex.22).

Prior to the issuance of the "Draft Framework", several Regions proactively instituted certain changes in library services in anticipation of the FY 2007 cut in funds for library services. For example, Region 10 by e-mail Memorandum sent May 17, 2006 to Steve Roy in advance of distributing it to all Region 10 employees apprised that in preparing for the budget cuts in library funding it was instituting new hours for its library and, contract staff would immediately begin reviewing library holdings to weed out redundant and outdated material and, additionally, to undertake to develop a prioritized list of periodical subscriptions for future

¹⁸ Mick informed Flynn that Roy was the designated spokesperson for all Agency AFGE locals regarding the matter of the proposed changes in library services. In addition to being President of the Region 10 AFGE local, Roy also holds the office of Executive Vice-President of AFGE Council 238.

purchase. This Memorandum apprised that while a comprehensive path forward was still under development (referring to the work of the senior level Agency-wide Library Steering Committee working on the "Framework" document) Region 10 was committed to ensuring a smooth transition to whatever new model of library services was ultimately chosen. Additionally, Region 10 acknowledged the importance of library services to the employees and apprised it would continue to discuss upcoming changes and proposals with the union. In closing, Region 10 requested that employees provide their ideas and comments to the region's Library Project Officer (Jt.Ex.17). As yet another example of a proactive response to the FY 2007 budget cut in library funding, in a Memorandum sent to Roy and Alan Hollis, President, Region 3 AFGE local, among others, in advance to its distribution to all Region 3 employees, the Memo informed that although historically, Region 3 had maintained two fully-functioning libraries, to wit, the Ft. Meade Environmental Science Center (ESC) and the library at its Philadelphia office, given the current FY 2006 budget reductions and the resignation of the ESC contract library staff, the responsibility for providing library services such as research, literature searches and inter-library loans was assumed by the Philadelphia library. However, Region 3 apprised that the collection of reports and journals at the ESC was being kept onsite for staff use. Region 3 further apprised that notwithstanding contract staff reduction at the Philadelphia library site, the Regional Center for Environmental Information (RCEI or the Regional Library), library services for all offices was being maintained by realigning priorities to emphasize direct user support such as reference/research and document delivery, including inter-library loans (Jt.Ex.18).

By Memorandum dated June 2, 2006 from David Mick to a number of recipients one of whom was Steve Roy, Mick informed that OEI in collaboration with the Library Steering Committee had assembled the draft "Framework" document entitled, "EPA FY 2007 Library Plan: National Framework" and that the document's design was to convey the new paradigm the Agency planned to deploy so as to perpetuate high quality delivery of library services to employees and the general public. Mick further apprised that implementation of the "Framework" would vary by Region and at the Headquarters level explaining that, that was the reason why "impact and implementation" bargaining of actual library service changes would take place separately in the Regions and at Headquarters. Mick stated however, that before final decisions were made with respect to composition of the "Framework" document and, thus, prior to it being sent out for further action in the Regions and Headquarters, it was OEI's desire to have input from the Unions representing the Agency's bargaining unit employees.²⁰ Mick apprised that for the benefit of the Unions, OEI planned to brief and field questions on the issue of pending library service changes at the National Partnership Council (NPC) meeting scheduled for June 13, 2006 in Washington, D.C. Mick then requested that the recipients of the draft "Framework" document provide feedback to him on the document by the close of business June 16, 2006 (Ag.Ex.5).

²⁰ Apparently, the recipients other than Roy to whom this Memorandum was directed were representatives of Unions other than AFGE that represented other segments of EPA's labor force.

In the Introduction section of the draft "Framework" document, the Agency noted in pertinent part the following:

Over the past three years, EPA has been looking at ways to modernize and improve the way it provides library services to its employees and the public. The trend in recent years has shown a shift in the way people request and receive their library services from EPA. With more materials available online and electronically, EPA has found that its employees and the public are finding the materials they need from EPA's Web site and they are requesting more information electronically. In addition, with tighter security at its facilities, the public's physical visits to the EPA libraries have been declining. EPA has also realized that it could gain efficiencies in having its regional libraries work more as a cohesive network with shared functions as opposed to their current operations. These trends all suggested to EPA that it needs to use information technology to improve its delivery of library services, and it needs to streamline the number of physical libraries to gain efficiencies.

* * * *

The following is a description of the new model EPA plans to implement to ensure that EPA employees continue to receive quality library services and that the public continues to have access to EPA information. EPA plans to begin transitioning to the new model in the Summer of 2006. In FY 2007 EPA plans to implement a phased approach to disperse and/or dispose of library collections in those libraries that will close access to their physical collections.

In its Conclusion section, the Agency stated the following:

EPA is committed to providing its employees the library services they need to do their jobs and the public access to the information needed to make informed decisions. The implementation of this plan will take time and resources, and EPA is committed to ensuring an efficient transition into this new model of providing library services.

(Ag.Ex.8)

Presumably, while still in the course of soliciting comments on the draft "Framework" document from Union representatives, via an e-mail attached Announcement dated June 13, 2006 (Un.Ex.43), the Agency informed employees of certain changes pertaining to Region 2's library, to wit: that the Region would close its library reading room and regional staff would have limited access to the physical collection and that public access to the library would be discontinued. Further, Region 2 would not add any additional titles or resources to the physical collection and its website would be removed from both the Internet and Intranet. Employees

were informed that the Region had no plans to disperse the physical collection which included material acquired from the Edison library that closed at the end of FY '04 and, were assured that library services would continue to be maintained via a research librarian physically located in the regional office. In and around this same time period, Region 6 apprised its employees that it would close its library which was responded to by a number of e-mail responses from the region's employees that were bundled together into one document dated June 16, 2006 which collectively urged that the library not be closed (Un.Ex.3).

By an e-mail but dated June 19, 2006 Mick sent to Roy (Jt.Ex.10 and Un.Ex.34), Mick stated it was his understanding that Roy had an interest in negotiating over library service changes and inquired as to whether Roy was seeking negotiations on the "Framework" document (Ag.Ex.8) or did he want to bargain on behalf of an AFGE Local(s) in response to a proposed regional library change. Mick then requested of Roy that whatever his bargaining interests were, that he identify his interests in conjunction with Article 45, Section 2 of the Master Collective Bargaining Agreement (Jt.Ex.1). In an e-mail response sent later in the same day, Roy informed both Mick and Mike Flynn that it was the Union's desire to move forward with commencing negotiations and asked when they would both be available to initiate negotiations (Jt.Ex.10 and Un.Ex.34).

By letter dated June 29, 2006, Presidents of sixteen (16) EPA Union Locals affiliated with three (3) National Unions and an Independent Union, together representing at least ten thousand (10,000) EPA employees (composed of scientists, engineers, environmental protection specialists and support staff) directed to Senator Conrad Burns and Senator Byron Dorgan, Chair and Ranking Member respectively of the Interior and Related Agencies Subcommittee of the United States Senate Appropriations Committee (with copies to 13 other Senators), wherein they stated the purpose of their joint letter was to protest the proposed \$2 million dollar reduction to the EPA operations and administration budget which EPA Management intended to use to close as many of the Agency's technical libraries as possible (Un.Ex.22).²¹ The letter went on to state the importance and significance of the libraries relative to the performance of their members' jobs and to providing the general public with vital information. The authors stated that for these reasons, it was urging Congress to reinstate the \$2 million dollar budget reduction and mandate that EPA Management use these funds to keep open the Agency's existing technical libraries noting that, as of the date of their joint letter, the EPA had

²¹ These National Unions were: American Federation of Government Employees (AFGE) the signatories representing 9 Locals and the Council 238; National Treasury Employee Union (NTEU) the signatories representing 4 of its Chapters; National Association of Government Employees (NAGE) the signatories representing 2 of its Locals; and the Union, ESC (Un.Ex.22). It appears that the timing of this letter was occasioned by the fact that on this date of June 29, 2006, the Senate Appropriations Committee passed an amended version to House Resolution (H.R.) 5386 which contained the EPA's funding and which was passed by the House on May 18, 2006 (Un.Ex.31). However, the record evidence reflects that the then 109th Congress adjourned without having completed FY 2007 appropriations for EPA and most other federal agencies and, as a result, funding to keep the federal government operating through February 15, 2007 was accomplished by way of a continuing resolution [H.J.Res 103 (P.L. 109-383)] (Un.Ex.18).

already significantly reduced library services and no longer made available services to the public in four (4) EPA Regions (Regions 1, 2, 5, and 6) which altogether service nineteen (19) states. The signatories of the letter averred that the proposed \$2 million dollar budget cut for EPA libraries was initiated by EPA Management, and approved by the Office of Management and Budget (OMB) and the President, before being sent to Congress asserting that said budget cut was just one of many Bush Administration initiatives to reduce the effectiveness of the Agency, and to demoralize its employees. Further, in this same vein, the signatories stated their belief that the sudden, draconian manner in which the EPA libraries were being closed with little regard to protection of its unique collection of past technical reports and documents, constituted one more example of the Bush Administration's efforts to suppress information on environmental and public health-related topics while cloaking these actions under the guise of "fiscal responsibility". The signatories also stated they had tried to resolve the library issue internally by sending a Union "Demand to Bargain" (see in this proceeding AFGE's "Demand to Bargain" on a National level, Jt.Ex.1-A and on a Local Level, Jt.Ex.21), but that EPA Senior Management had rebuffed their Demand on grounds that the topic was "premature" to negotiate because no formal FY 2007 library plan had yet been adopted.³²

Although Council 238 forwarded to the Agency its "Demand to Bargain" on a National level dated March 16, 2006 (Jt.Ex.1-A), it was not until July 18, 2006 that the Agency formally responded to the Demand in writing in an e-mail Memorandum sent by Mick to Roy (Jt.Ex.8). In pertinent part, this Memorandum stated the following:

- Management had acted within its rights to form a library steering committee populated solely by non-bargaining unit employees and that on behalf of this committee, OEI had actively sought consultative feedback from the Unions. As such, OEI has endeavored to maintain an interactive dialog with the Unions regarding library service changes as evidenced by: (a) providing an initial briefing on past labor/management teleconference; (b) presentation at the recent National Partnership Council meeting; and (c) submitting the draft "Framework" document for Union review and comment. OEI still remains open to discussion with the Unions on the "Framework" document.
- The Headquarters' library has not yet been closed nor have plans been finalized concerning its closure. Once such details have been determined, they will be shared with the Unions representing Headquarters' bargaining unit employees for appropriate "impact and implementation" bargaining.
- In regard to Council 238's demand that the Agency maintain a status quo posture with respect to library service changes, the Agency reiterates that it

³² It is recalled that at this point in time, the Agency had, in draft form, circulated its proposed plan titled, "EPA FY 2007 Library Plan: National Framework" (see Ag Ex.8), among which purpose was to solicit input from the Unions.

will, at the Regional level and at HQ (for the HQ library), bargain "impact and implementation" issues attendant to library service changes once local library service change plans are developed. These plans will be shared with the Unions once they are completed by Management.

- With respect to Council 238's request that the Agency "... cease its discussions of EPA library closures for FY 2007, and to reinstate the \$2 million dollar budget cut to the libraries", the Agency's response is that it does not view such a demand as appropriate for impact and implementation bargaining. In fact, this particular Union proposal would preclude the Agency from exercising its rights in taking any action whatsoever on the matter of library service changes.

In closing, Mick apprised Roy OEI had a strong commitment to providing employees access to necessary library services and that Management remained receptive to informal consultation with the Union (versus formal negotiations) on substantive library service changes.

By an undated Memorandum (apparently transmitted August 11, 2006) Mike Flynn thanked Paul Scoggins, President of AFGE Local 1003 and Tammy L. Jones-Lepp, President of NAGE Local R12-135 for their comments pertaining to the "Framework" document. Additionally, Flynn apprised Scoggins and Jones-Lepp that coordination of EPA's Library Network would continue with the Office of Administration and Resource Management's (OARM) two (2) Environmental Research Center libraries, the Research Triangle Park (RTP) located at North Carolina and the other located at Cincinnati as the co-leads of the Network. The co-leads, Flynn explained, will conduct conference calls used by the Network libraries' staff and managers for information sharing, coordination of cross-library efforts, and handle other issues and that OEI would continue to fund the Library Network listserve, as well (Un.Ex.41).

On or about August 15, 2006, the Agency released in final version its library plan titled, "*EPA FY 2007 Library Plan: National Framework for the Headquarters and Regional Libraries*" (Jl.Ex.5). A comparative analysis of the June 1, 2006 draft "Framework" (Ag.Ex.8) and the Final version reveals almost no substantive changes in the plan, notwithstanding some input in terms of comments by bargaining unit employees and some Union representatives regarding the draft version. The record evidence reflects that on August 16, 2006, Roy on behalf of the Union, filed a formal grievance addressing the Agency's unwillingness to bargain over the closure of libraries and change in library services. However, Roy indicated that if the Agency would be willing to negotiate the issue of library closures and changes in library services, the Union would be more than happy to work with the Agency (Un.Ex.34). Subsequent to the release of the draft version of the "Framework" but prior to the release of the Final version, the Agency conducted a two-week pilot program relative to instituting library changes going forward that occurred in the period June 26 – July 7, 2006 which it characterized as successful, that occasioned the

decision by Region 5 to close its library as of August 28, 2006.³³ In an e-mail Memorandum dated August 23, 2006 apprising of Region 5's library closure, employees were notified that library services would be provided by the EPA Environmental Research Center library at Cincinnati and through the online Desktop Library (Un.Ex.44). By e-mail Memorandum dated August 24, 2006, Mick notified a number of EPA Management staff that the Headquarters Library would close for general access effective October 1, 2006 and that he had been designated the labor relations point of contact on this matter (Jt.Ex.11). Apparently in reaction to this information, Steve Shapiro, President of AFGE Local 3331 (Washington, D.C.) sent an e-mail response to Charles Orzechoskie, President of AFGE Council 238 apprising that Local 3331 would take whatever action AFGE Council 238 would wish them to take (Jt.Ex.11). Earlier on that same day, August 24th, Orzechoskie sent an e-mail to Mick in response to the news that Headquarters would be closing its Library for general access as of October 1, 2006 wherein Orzechoskie wrote the following:

In view of the message that you sent . . . indicating that the Headquarters Library is closing October 1, 2006, it seems that your response to Steve Roy on July 18, 2006 (Jt.Ex.8) is no longer appropriate. In fact, to quote that letter, *"Once such details have been determined, they will be shared with the Unions representing Headquarters bargaining unit employees for appropriate 'impact and implementation' bargaining."* Council 238 is a consolidated Union representing Headquarters Bargaining Unit employees, so when do you intend to begin "impact and implementation" bargaining? (Jt.Ex.7).

By letter dated September 19, 2006 signed by Senator Bart Gordon, Ranking Member of the Committee on Science, Senator Henry A. Waxman, Ranking Member of the Committee on Government Reform, and Senator John D. Dingell, Ranking Member of the Committee on Energy and Commerce and sent to David M. Walker, Comptroller General of the United States, the three Senators requested that the Government Accountability Office (GAO) examine the Administration's plan, incorporated in the President's fiscal year 2007 budget proposal to cut funding for the EPA's library system by over 30 percent. The Senators expressed "grave concerns" about the effects of this plan on EPA's ability to protect the environment and questioning whether the plan would actually save the government money. The Senators apprised that EPA professional staff assert that the proposed cuts to EPA's library system will harm the Agency's ability to carry out its mission and will be especially damaging to EPA's ability to enforce environmental laws. They [EPA

³³ It is recalled that initially, Region 5 had indicated that closure of its library would occur as of September 30, 2006, which is noted as the last day of FY 2006. In a Memorandum dated June 19, 2006, addressing the subject, "Region 5 Library Update", employees were apprised of *How the pilot will work*, namely: In the past, when staff needed library services, they had the option of working with a librarian face-to-face, over the phone or via e-mail. During the pilot, staff can choose whether they prefer to work with the librarians on the phone, via e-mail, or through a new intranet page During the pilot, we will be gathering usage statistics and following up with staff to learn about their experiences. * * * The pilot will run from June 26 until July 7. If all goes well, we expect to permanently transition over to the Cincinnati library soon after (Jt.Ex.19).

staff] also fear that, due to inadequate planning and lack of funding for digitizing documents, access to many documents will be temporarily or permanently lost. Additionally, these cuts could deprive the public of access to critical environmental information in many parts of the country. The Senators stated that while the OEI plan is vague on specifics, a key element is its "phased approach to the closure of physical libraries," which suggests that EPA will close a number of its existing libraries. The Senators noted that EPA had already identified three libraries to close and had begun implementing the plan by dispersing collections and reducing services, even though Congress had not yet approved EPA's FY 2007 appropriations. Additionally, the Senators apprised the plan aims to continue to provide access to documents electronically, but does not discuss the number of documents that would need to be digitized, the timeframe, or the amount and source of funding that would be necessary to carry this out. The Senators stated that it appears that EPA plans to shut libraries first and digitize documents later and that it is unclear from the budget proposal or the plan what funds will be allocated to ensuring that paper and microfiche documents will be digitized and made available electronically. The Senators related that they fully supported the goal of modernizing the management and delivery of information services within the government and to the public noting that, information and communication technologies provide opportunities for the government to utilize and distribute information more efficiently both internally and externally. Further, they related that modernization should occur but within a framework that ensures continuity in the delivery of service during the modernization process and that, the result should be enhanced and expanded access to information, not vague promises of future improvements to information services, while real access to information is eliminated without Congressional action. Based on the foregoing, the Senators requested that GAO examine the plan for restructuring the EPA library network, its justification, and its implementation and that in its examination, it focus on seven (7) areas of inquiry with each area comprised of multiple questions to be answered.²⁴

The record evidence reflects that by Notice placed in the Federal Register on September 20, 2006 (Vol. 71, No. 182 [54986]), the Agency made public notification of its decision to close the doors of its Headquarters Library to walk-in patrons and visitors effective October 1, 2006 and to inform the public as to how they could access EPA documents held in the Headquarters Repository Library collection and in electronic format (Jt.Ex.19 and Un.Ex.47).

By letter dated October 13, 2006 and transmitted by e-mail attachment, AFGE Local 704 Union President, John J. O'Grady corresponded with Jonna Hamilton, a member of Illinois Senator Richard J. Durbin's staff wherein he informed Hamilton of the impacts he was able to discern regarding closing of the EPA libraries

²⁴ The following is an example of just one of the seven areas and the questions pertaining thereto identified in the letter as point 3, to wit: What criteria are being used to decide which materials in the EPA collection will be disposed of or dispersed to other locations? Are these criteria appropriate and being implemented in a manner that ensures documents are not lost or inaccessible for an extended period of time? (Un.Ex.21).

(Un.Ex.33). Under the heading, IMPACTS TO AGENCY EMPLOYEES AND GENERAL PUBLIC, O'Grady set forth the following points:

- Loss of quick and direct access by EPA Environmental Engineers, Environmental Scientists, Environmental Health Scientists, Toxicologists, Ecologist, etc., to Agency studies, reports, reference materials.
- Loss of access by the general public to Agency studies, reports, reference materials.
- Loss of the use of Regional libraries as a repository for information for Superfund Sites, etc.
- Loss of specialized reference materials for programs such as the Great Lakes National Program Office.
- Libraries at EPA Headquarters, Regions 5,6,&7 have been closed and materials are no longer available to staff, until digitized.

Under the heading, IMPACTS TO ENFORCEMENT AND PERMITTING PROGRAMS BY LACK OF ACCESS TO INFORMATION, O'Grady set forth the following points:

- Loss of support for enforcement within the Regions may cause an overwhelming demand on the small National Enforcement Investigation Center (NEIC) library in Denver, CO (also referenced in evidentiary documents in this arbitral proceeding as, the Environmental Forensics Library – Un.Ex.16), by requiring the NEIC library to provide not only unique material, but also items that the regional libraries currently provide. There is no budget available to expand NEIC's library capacity should this increased demand for NEIC library services occur.
- Please note that NEIC is the only environmental forensic center accredited for environmental data measurement activities. The Center has an unique role in conducting complex criminal and civil enforcement investigations and applied research and development to support science for enforcement.
- Documents may be distributed without adequate documentation and cataloging and may become virtually lost within the system.
- The loss of institutional memory as well as the loss of expertise from professional librarians in the regions will hamper enforcement program.

O'Grady ended the letter by citing actual comments by employees not identified by name regarding their personal view as to the impact the closing of Region 5's library had on them with respect to performing their job.

The record evidence reflects that between October 16, 2006 and October 27, 2006 Roy and Mick exchanged e-mail communications regarding the Agency's counter-proposal to AFGE Council 238's March, 2006 Demand to Bargain over the change in Library Operations and Services (Jt.Ex.1A). According to these e-mail exchanges (Un.Exs.35&37), Mick had indicated the Agency's counter-proposal would be

provided to the Union prior to October 16, 2006 but, on that date, Mick informed Roy his work on the counter-proposal was still unfinished. In not having received the Agency's counter-proposal by October 26, 2006, Roy inquired of Mick as to when he could expect to receive it. In that same e-mail of October 26th, Roy specified nine (9) dates in November, 2006 the Union's negotiating team was available to meet to commence negotiations with the Agency over the issue of the change in Library Operations and Services. By e-mail dated October 27th, Mick informed Roy he was still working on developing the counter-proposal to the Union's demand to bargain regarding library service changes and hoped to get it to the Union the following week, adding that it was his belief that the counter-proposal would serve to remedy the Union's grievance on this matter with respect to its relief request for the Agency to bargain over national-level library change bargaining demands. Concurrent with the exchange of these e-mail communications, other e-mails were exchanged between Roy and Mick between October 17, 2006 and November 22, 2006 pertaining to progressing the Union's grievance over the change in library operations to arbitration (Un.Ex.36 and Jt.Ex.9). In an e-mail dated October 17, 2006, Roy notified Mick that, on behalf of the Union, he was invoking arbitration on the grievance issue of the change in library operations pursuant to Article 44 of the Master Collective Bargaining Agreement (MCBA, Jt.Ex.1). In a subsequent e-mail dated October 25, 2006, Roy informed Mick that Chicago had been selected by the Union as its preference venue for holding the arbitration because of its central location in the country thereby making it convenient for the parties. In response, by e-mail dated November 9, 2006, Mick informed Roy he had some concerns with the Union's approach regarding arbitration of the subject grievance, to wit: in noting that the MCBA is silent with respect to identification of venue for arbitration, he stated he found unacceptable, the Union's attempt to unilaterally decide the venue for holding the arbitration, expressing his belief that the appropriate venue would be Washington, D.C; Mick also stated he took issue with the fact that the list of arbitrators requested by the Union from the Federal Mediation and Conciliation Service (FMCS) contained only arbitrators who share in common the fact that their primary or secondary business address is located in Chicago, Illinois, the Union's location of preference. In this same e-mail, Mick indicated that he would soon be providing a counter-proposal to the Union's March 16, 2006 Demand to Bargain on what the Union deems to constitute national library issues and, additionally, he would provide a counter-proposal to the Union's proposed ground rules. Mick closed by expressing he remained hopeful that the parties could resolve the grievance matter in bargaining the issue thereby precluding the need to arbitrate the issue. However, not hearing anything further from Mick after November 9th, Roy sent an e-mail to Mick dated November 22, 2006 (Jt.Ex.9), wherein he set forth a chronology of their e-mail exchanges beginning with October 17, 2006, summarizing their colloquy when it occurred and noting a number of instances where Mick opened his (Roy's) e-mails but made no response. Following this summary, Roy stated the following:

For months, Council 238 had been regularly communicating with you and attempting to engage you and the Agency in the negotiation process and

arbitration process concerning the changes to the library operations and library services. You have not been responsive in a timely manner for either the negotiations or arbitration processes. You have a blackberry, a cell phone and other means to communicate with Council 238, but have consciously chosen not [to] communicate with us. Mr. Mick you need to take personal responsibility for your failure to communicate effectively and in a timely manner with Council 238 on these important issues.

Pursuant to Article 44, Section 2, please select one name from the arbitrator's list or strike three names. Please forward onto me your selection for our consideration the one name or the three names you wish to strike. I also encourage you to call me to discuss this important matter.

By Memorandum dated October 31, 2006 from Julie Hagensen, Region 10 Director, Office of Management Programs and directed to all Region 10 personnel (JLEx.16), Hagensen provided an update from her last Memorandum of May 17, 2006 (JLEx.17), regarding changes in library services. Hagensen informed Region 10 personnel that Region 10 had carefully tailored a new library contract that began October 19, 2006 and then followed with the details of that contract. In closing, Hagensen acknowledged the importance of library services to its employees and its obligation to provide EPA information to the Region 10 public. Hagensen stated that Region 10 management would continue to re-evaluate and look for methods of delivering information efficiently and economically, apprising that the long term goal for the EPA was digitization of all unique resources to expand access at the desktop.

In a letter dated November 3, 2006 signed by eighteen (18) Senators and sent to [4] senior members of the Senate Appropriations Committee, the signatories requested the Committee direct the EPA to restore and maintain public access and onsite library collections and services at EPA's Headquarters, regional, laboratory, and specialized program libraries while the Agency solicits and considers public input on its plan to drastically cut its library budget and services.²⁵ The signatory Senators expressed their concern that EPA was already dismantling its unique library system without including the public or Members of Congress in the decision-

²⁵ The eighteen (18) Senators were: Barbara Boxer; Tom Harkin; Maria Cantwell; James Jeffords; Frank R. Lautenberg; Richard Durbin; Jack Reed; Barack Obama; Ken Salazar; Joseph I. Lieberman; Jeff Bingaman; Russell D. Feingold; Mark Dayton; Max Baucus; John Kerry; Edward M. Kennedy; Paul S. Sarbanes; and Hillary R. Clinton. It is recalled elsewhere in this Background Section that Senator Durbin had been the recipient of correspondence by AFGE Local 704 President, John J. O'Grady in which O'Grady identified a number of impacts to Agency employees and the General Public as well as impacts to enforcement and permitting programs by lack of access to information as a result of the closing of EPA libraries. The recipients of the letter, the four (4) senior members of the Appropriations Committee were: Thad Cochran; Conrad Burns; Robert C. Byrd; and Byron Dorgan (Un.Exs.20&31). It is recalled that four (4) months prior to the sending of this letter, Senators Burns and Dorgan were the recipients of the June 29, 2006 letter sent to them by the presidents of the sixteen (16) EPA local unions voicing their collective protest pertaining to the proposed \$2 million dollar budget reduction to the EPA operations and administration budget claiming that, EPA management intended to close as many of the Agency's technical libraries as possible (Un.Ex.22).

making process noting that EPA had already eliminated or reduced library service to the public in seven (7) EPA regions covering 31 states and was planning to close its Headquarters' library and maintain it only as a repository.²⁶ In support of their collective concern the Senators, among setting forth other information, cited a document generated by the EPA's Office of Enforcement and Compliance Assurance (OECA) pertaining to the Agency's library restructuring that expressed concern about the Agency's failure to adequately assess costs and funding needs, maintain critical information, and ensure data accessibility. The Senators noted that OECA noted that the libraries have information important to specific regions, states and locales, and unique data on industrial processes and analytical methods and indicated its fears that dispersal of this material without proper tracking and access could undercut rulemaking and the ability to "substantiate and support findings, determinations, and guidance." In closing, the Senators requested that the Subcommittee on Interior and Related Agencies of the Senate Appropriations Committee direct EPA in the FY 2007 Interior and Related Agencies Appropriations Bill to restore and maintain public access and onsite library collections and services at EPA's Headquarters, Regional, Laboratory, and Specialized Program Libraries to the status they held as of January 1, 2006. Additionally, the Senators requested that the Appropriations Committee direct EPA to solicit and consider public and Congressional input, in an open process, prior to making any decision to close a library, cut services, or dramatically restructure the Agency's library system (Un.Exs.20 & 31).

By letter dated November 30, 2006, sent by Senators Bart Gordon, John Dingell, Henry A. Waxman, and James L. Oberstar to EPA Administrator, Stephen Johnson, the Senators expressed their serious concerns over the current implementation of the Agency's plan to reorganize the EPA library system stating it was their understanding that EPA was in the process of closing libraries and dispersing and destroying materials and, that the General Services Administration (GSA) was auctioning off library equipment. In noting these actions were being undertaken in accordance with the budget request the President submitted for FY 2007, the Senators averred that Congress had not approved either the President's 2007 budget request or the library closure. The Senators then requested that the Agency maintain the status quo of the libraries and their materials while this issue

²⁶ The record evidence as set forth hereinabove reflects that the letter was written one (1) month after the fact of the EPA closing both its Headquarters' library to walk-in patrons and visitors and its Chemical Library also located in Washington, D.C. effective October 1, 2006 (Jt.Ex.19 and Un.Ex.47). Other libraries that had already been closed as of the date of this letter (November 3, 2006) were: Regions 5, 6, and 7 libraries; the Ft. Meade Library in Region 3; and the New Jersey Library in Region 2 (Un.Ex.31). However, the reference in this letter to the closure of the Region 2 library located in Edison, New Jersey in connection with the closures and reduced services of libraries in reaction to the FY 2007 budget reduction in funding for libraries was misleading as the Edison, New Jersey Library had closed in September of 2004 (see Un.Ex.16). Factually, the record evidence reflects that as of the date of this letter, the EPA had effected changes in six (6), not seven (7) regions as stated, specifically, the three (3) regional closures of libraries in Regions 5, 6, and 7 and reduction in services in three (3) other regional libraries specifically, Regions 1, 9, and 10. It is noted that Region 2 instituted a new schedule of hours for its library but that this change was not made known to employees until December 1, 2006 and did not take effect until December 11, 2006.

was under investigation and review by Congress.²⁷ The Senators further requested that the EPA brief their respective staffs and provide a written plan to Congress that included the schedule and procedures that the Agency intended to use to govern the disposition of documents, the consolidation of library services, and the transfer of paper and microfiche documents to electronic forms that will be publicly available. Additionally, the Senators requested that Johnson ensure that Agency staff compile and maintain records of the location and content of all library material including materials that have already been dispersed, to ensure they could be retrieved and used by Agency personnel and the public. In closing, the Senators opined that it was imperative that the valuable government information maintained by EPA libraries be preserved and, to that end, the Senators further requested of Johnson that he confirm in writing by no later than Monday, December 4, 2006, that the destruction or disposition of all library holdings immediately ceased upon the Agency's receipt of their letter and that all records of library holdings and dispersed materials are being maintained (Un.Ex.19).

Notwithstanding the several requests advanced to EPA Administrator Johnson by the four Senators in their joint letter of November 30, 2006, but primarily the request to maintain the status quo, nevertheless, the record evidence reflects that changes in library services continued to proceed. By Memorandum from Region 2 EPA Management dated December 1, 2006, employees were informed they would continue to have access to the Library but there would be a new schedule of hours instituted effective December 11, 2006 wherein on Tuesday, Wednesday, and Thursday the library would be open for four (4) hours (10am to 2pm) and would be closed altogether on Monday and Friday. The Memorandum further advised that the Agency had embarked on a project to digitize all EPA specific documents that are in all the EPA libraries and that information would be made available on the internet to EPA employees and the public (Un.Ex.38). In a news release dated December 7, 2006, three (3) days beyond the deadline date set by the four Senators for EPA Administrator Johnson to respond to their several requests, the public interest group, Public Employees for Environmental Responsibility (PEER), reported that, in defiance of Congressional requests to immediately halt closures of library collections, EPA was purging records from its library websites, making them unavailable to both agency scientists and outside researchers. PEER further reported that at the same time, EPA was taking steps to prevent the re-opening of its shuttered libraries, including the hurried auctioning off of expensive bookcases, cabinets, microfiche readers and other equipment for less than a penny on the dollar. As an example of this latter reportage, PEER noted that in EPA's Region 5's

²⁷ It is recalled that three of these same four Senators, namely, Gordon, Waxman, and Dingell, had jointly signed and sent a letter dated September 19, 2006 to David M. Walker, Comptroller General of the United States, requesting that the GAO examine the Administration's plan (according to them that was incorporated in the President's fiscal year 2007 budget proposal) to cut funding for the Agency's library system by over 30 percent (Un.Ex.21). In actuality and more precisely, according to information compiled by the Library of Congress Congressional Research Service, the monetary sum enacted by the Congress for FY 2006 was \$7 million dollars for the EPA libraries whereas, the request before Congress for FY 2007 was \$4.5 million dollars. This decrease in appropriations of \$2.5 million dollars thus represented a cut in funding for EPA libraries of near 36 percent (Un.Ex.18).

library which had already been shuttered and which formerly hosted one of the largest regional libraries, EPA ordered that all furniture and furnishings (including small items such as staplers and pencil sharpeners) be sold immediately and citing, as fact, that despite an acquisition cost of \$40,000 for this furniture and equipment, a person purchased the entire lot for \$350 which the person estimated could be resold for \$80,000.²⁸ PEER characterized these monetary transactions thusly; "while the Pentagon had its \$600 toilet seat and \$434 hammer, EPA has its 29cent book case and file cabinets for a nickel." PEER asserted that one big irony was the EPA's claim it needed to close libraries to save money but that in the process the Agency was spending millions on a public relations campaign to improve the image of its research program as well as \$2.7 million dollars (a sum greater than the \$2 million dollars the Agency estimated would be saved closing the libraries) to digitize all employee personnel files. PEER opined that, "no one believes that EPA is closing libraries and crating up irreplaceable collections for fiscal reasons but instead, the real agenda appears to be controlling access by its own specialists and outside researchers to key technical information (Un.Ex.30).

Although the EPA continued to proceed with instituting changes in its library operations beyond the December 4, 2006 deadline date various Members of Congress had set for the Agency to respond to its request that it halt implementing said changes and institute a status quo position, nevertheless, sufficient pressure was brought to bear not only by Congress' direct intervention, but also by the ongoing investigation the GAO initiated by a request from Congress to review, examine, and report on the Agency's library reorganization plan, and by both the various Unions representing affected EPA bargaining unit members and the various library associations throughout the country protesting the Agency's actions relative to changes in its library operations and services, that it prompted EPA Administrator, Stephen L. Johnson to notify the Chairmen of the four (4) House Committees; Energy and Commerce, Oversight and Government Reform, Transportation and Infrastructure, and Science and Technology, by letter dated January 12, 2007 that he had ordered a moratorium prohibiting the Agency from making further changes to its library services for 90 days (Un.Ex.16).

In a news release dated January 31, 2007, PEER reported that the brave new world of electronic libraries at the EPA is turning into a nightmare according to librarian complaints. PEER reported that with nearly one third of its library network now closed, internal and external researchers are frustrated by being forced to rely on balky, incomplete digital inventories. According to PEER, the EPA's drive to close its physical libraries rests upon the premise that the same materials will be available electronically through a system called the National Environmental Publications Internet Site (NEPIS) but that even experienced librarians are unable to find materials on this new system citing several e-mail messages posted by Librarians on the Agency's library intranet site over the prior three (3) week period. PEER, in

²⁸ The Arbitrator notes that on the date of this subject arbitration, September 25, 2007, he toured the floor area that once housed the Region 5 Library and that in fact, while there remained some materials and equipment piled up in a very small space, the area was almost totally barren.

citing copyright and other problems, reported that EPA admitted that large numbers of research materials boxed-up from closed libraries will not be included in NEPIS and, in addition, large portions of crated collections will remain in storage for the foreseeable future. PEER Associate Director Carol Goldberg was quoted as saying, "EPA is now experiencing the worst of both worlds: its physical collections are compromised and its online index does not work. It is almost as if EPA's leadership decided to sabotage its own scientific research program."²⁸ PEER ended this news release by reporting that EPA has reportedly pledged to delay any further library closures pending congressional review, noting that the Senate Committee on Environment & Public Works would be conducting the first legislative hearings on EPA library closures on February 6, 2007 (Un.Ex.29).

On date of February 5, 2007, one (1) day prior to the scheduled convening of the Senate oversight Committee hearing, Council 238 filed an Unfair Labor Practice (ULP) complaint with the Federal Labor Relations Authority (FLRA) wherein, the Union claimed the Agency failed to respond to its request to select an arbitrator to hear the grievance it filed with the FLRA on August 16, 2006 protesting the Agency's failure to bargain over changes in library operations and services envisioned in its library reorganization (Un.Exs.25 & 26).²⁹

The record evidence reflects that, in fact, the U.S. Senate Environment and Public Works Committee convened an oversight hearing on February 6, 2006 into, among other concerns, the matter of the EPA library closures and changes as of that date EPA had instituted with regard to access to its holdings by both staff and the general public and the curtailing of library hours and reduction in library staff pertaining to libraries that remained open (Un.Ex.18).³⁰ One of the witnesses testifying on February 6th was Leslie Burger, President of the American Library Association (ALA) and Director, Princeton Public Library. As part of her testimony, Burger stated two (2) primary concerns based upon the fact the EPA had already begun closing libraries and restricting public access to the many libraries

²⁸ It is recalled that after filing the August 16, 2006 grievance, the Union continued to seek negotiations with the Agency over changes that had already been made and those announced changes in the offering to be instituted in FY 2007 and, as a result of the Agency's not meeting with the Union anytime within two (2) months following the filing of the subject grievance, the Union invoked arbitration on October 17, 2006. Thereafter, the Union sought to enter into a joint effort with the EPA to select an arbitrator but to no avail.

³⁰ It is clear from a reading of Senator Barbara Boxer's (Chair of the Committee on Environment and Public Works) opening statement, that this hearing was convened to explore several areas of concern in addition to the Agency's closure of libraries as part of its Library Reorganization plan. In Senator Boxer's opening statement, she referenced the following topics of interest to the Committee, to wit: "Weakening the Community's Right to Know relative to rules for toxic chemicals; "Eliminating Perchlorate Testing; "Cutting Scientists Out of the Process of Setting Air Quality Standards; "Possible Revocation of the Lead Air Quality Standard urged by the lead acid battery industry; and "Increasing Toxic Air Pollution via proposed weakening of its rules for controls on toxic air pollution. In her concluding remarks, Senator Boxer stated the following: "The pattern of these year-end actions is striking -- the public interest is sacrificed and environmental protection compromised. Who gains from these rollbacks? Just look at who asked for them, like Big Oil and the battery industry. EPA's actions and proposed actions make it clear who EPA is protecting. The purpose of these oversight hearings is to remind EPA who they are truly accountable to -- the American people" (Un.Ex.28).

that were still open despite the fact that Congress had yet to pass a FY 2007 budget. The two primary concerns Burger addressed in her testimony were:

- In the course of shutting down these libraries, valuable, unique environmental information would be lost or discarded; and
- Because there are fewer libraries and professional library staff, scientists and the public will have limited access to this information. We have a deep concern with limitations these closings would place on the public's access to EPA library holdings and the public's "right to know." In an age of global warming and heightened public awareness about the environment, it seems ironic that the Administration would choose this time to limit access to years of research about the environment.

At the end of her testimony, Burger stated, "[t]he future, it seems, calls for a hybrid, where not every single item or service is online, nor is everything confined to a physical structure. And the backbone of it all is a profession of skilled, knowledgeable, and, most importantly, helpful information specialists: librarians. In another reference to librarians, Burger averred that without trained librarians, users are having a very difficult time accessing what does remain of the EPA library system.

In closing, Burger made the following requests of the Committee on behalf of the American Library Association, to wit:

- Halt all library closures;³¹
- Discuss a plan with stakeholders on how best to meet user needs and plan for the future;
- Base any actions upon these users' needs;
- Stop dispersing and dumping of any of their library materials immediately;
- Stabilize and inventory the collections that have been put in storage;
- Develop and implement a government-wide process to assist agencies designing effective digitization programs; and
- Reestablish library professionals – inherently governmental library professionals.

³¹ Writer and photographer, Christopher Moraff in an article he authored for the publication, *In These Times* dated February 1, 2007 quoted EPA Spokesperson, Jessica Ernsed as saying that a Washington, D. C. based blog run by Cox Newspapers mischaracterized EPA Administrator Stephen Johnson's January 12, 2007 letter to various Senators and Congressmen when it reported that the Agency had halted library closings since it was never the Agency's plan to close any additional libraries beyond those it had already closed by the start of FY 2007 (U.Ex.28). It is recalled that on day one of FY 2007, the Agency had closed a total of five (5) libraries, to wit: the Washington, D.C. Headquarters' Library; the Chemical Library also located in Washington, D.C.; and the three (3) Regional Libraries, Regions 5, 6, and 7 (Ua.Ex.16).

Another witness appearing before the Committee was EPA Administrator, Stephen L. Johnson. According to a PEER news release dated February 8, 2007 (Un.Ex.28), Johnson testified that only five (5) of the 26-library network had been closed which PEER reported was factually incorrect as PEER noted that the most recent closure had been the Regional Library in Atlanta (Region 4) serving eight (8) southeastern states where virtually all services had been transferred to its Cincinnati facility³². PEER reported that when confronted by Committee Chair, Senator Barbara Boxer, regarding the Atlanta library closure, Johnson stated he knew nothing about the functional shuttering of the Atlanta facility. As to this difference between PEER's reporting and Johnson's testimony regarding Region 4's library status, the record evidence does not support PEER's reporting of the facts. The record evidence reveals that at the time Johnson testified before the Committee, the status of the Region 4 library as reported by the Congressional Research Service (CRS) was that it was open (Un.Ex.18). And, as of June, 2007, in an update of its Report for Congress on the *Restructuring EPA's Libraries*, the CRS reported the status of Region 4's library was open (Un.Ex.16 – see also fn 31, *supra*).

In addition to witness testimony, the Committee conducting the oversight hearing also took into consideration written submissions from interested persons and groups. One such submission was a letter signed by 85 environmental law professors wherein, they asserted, they had an ongoing interest in the effective implementation of federal environment laws and, as such, they urged the Committee to undertake a thorough and vigorous investigation of the Administration's decision to close EPA libraries around the United States. At the end of this letter the signatories opined as follows; "[b]y closing and limiting the hours of EPA's libraries - - the largest source of environmental information in the world - - the Administration has struck a damaging blow against EPA and its crucial mission of protecting human health and the environment. We hope you will exercise your influence and leadership to reverse these misguided steps." (Un.Ex.18). Another written submission for the Committee's review and consideration was the Congressional Research Service Report for Congress dated January 3, 2007 titled, *Restructuring EPA's Libraries: Background and Issues for Congress*, referenced hereinabove. The Report noted that EPA began to restructure its libraries in FY 2007 as part of its transition from walk-in services to electronic dissemination of its collections. As a result, EPA closed five (5) of its libraries on October 1, 2006, including its headquarters library in Washington, D.C. and had reduced access to four (4) others. The report included a table listing all 26 libraries in the EPA network and their status as of the beginning of FY 2007. The five (5) closed libraries were identified as follows: 1. Headquarters Library; 2. Region 5 -Chicago; 3. Region 6 – Dallas; 4. Region 7 – Kansas City; and 5. the Chemical Library in Washington, D.C. The four (4) libraries with reduced access were identified as: 1. Region 1 – Boston; 2. Region 2 – New York; 3. Region 9 – San Francisco; and

³² The Cincinnati facility is one of the two (2) EPA Environmental Research Centers under the jurisdiction of the Agency's Office of Administration and Resource Management (OARM).

4. Region 10 – Seattle.³³

By Memorandum dated February 27, 2007, from OEI Deputy Assistant Administrator, Linda A. Travers to EPA Assistant Administrators, Deputy Assistant Administrators, Regional Administrators, Deputy Regional Administrators, and Assistant Regional Administrators, Travers apprised the Agency was extending, until further notice, the initial 90 day moratorium commitment made by EPA Administrator Johnson to Congress to refrain from further implementing changes to the Agency's library network. However, notwithstanding this moratorium extension, Travers stated, as a reminder, that Headquarters, Regional, and Laboratory library staff should continue to evaluate

³³ Except for the closure of the Washington, D.C. Chemical Library, the remaining four (4) closed libraries and all four (4) of the libraries that had their access reduced (mainly by reduced hours of operation) all fell under the jurisdiction of the EPA's Office of Environmental Information (OEI). The Chemical Library fell under the jurisdiction of the EPA's Office of Prevention, Pesticides, and Toxic Substances (OPPTS) (Un.Ex.18). In another table, specifically Table 2, the Report identified six (6) other EPA offices that had jurisdiction over fourteen (14) library facilities, to wit: the Office of Research and Development (ORD) with jurisdiction over eight (8) libraries; the Office of Administration and Resource Management (OARM) with jurisdiction over two (2) libraries; the Office of the Administrator (OA) with jurisdiction over one (1) library; the Office of General Counsel (OGC) with jurisdiction over one (1) library; the Office of Air and Radiation with jurisdiction over one (1) library; and the Office of Enforcement and Compliance Assurance (OECA) with jurisdiction over one (1) library. The remaining three (3) libraries which remained in open status fell under the jurisdiction of OEI which altogether had jurisdiction over a total of eleven (11) of the 26 libraries, specifically, the Headquarters Library and the ten (10) Regional libraries. Interestingly, the OEI absorbed \$2 million dollars of the anticipated budget reduction of \$2.5 million dollars and the OARM absorbed another \$1 million dollars with \$200,000 of that \$1 million dollar reduction allocated to ORD which represented a half million dollar increase in its budget over FY 2006 from \$1.6 million dollars to \$2.1 million dollars. Table 2 reflected no budget for the library maintained by the Office of the Administrator for any of the Fiscal Years listed (FY 2002 through FY 2007) and showed no change in the budgeted amounts for the remaining three (3) EPA offices with jurisdiction over library facilities (each with jurisdiction over one library facility) from what was budgeted in FY 2006, to wit: OECA, OGC, and OPPTS. It is interesting to note that even though EPA closed the Chemical Library located in Washington, D.C., the one library under the jurisdiction of the OPPTS, nevertheless the library budget for OPPTS remained at \$200,000 dollars in FY 2007 the same as it had been for FY 2006 (Un.Ex.18). However, according to the publication, *Beside EPA*, the issue dated July 6, 2007, Congress never passed the FY 2007 EPA funding bill that included the \$2 million dollar budget reduction for the OEI (Un.Ex.26). However, this report by *Beside EPA* is disputed by the information set forth in the updated June 15, 2007 CRS Report to Congress on the *Restructuring EPA's Libraries*, which reported that the funding enacted by Congress for EPA libraries in FY 2007 had been \$6.5 million dollars, which represented an overall reduction in funding from FY 2006 of nearly \$1.2 million dollars (Un.Ex.16). A comparison of this updated CRS Report with its January, 2007 Report (Un.Ex.18) reveals significant revisions in the funding numbers for EPA libraries enacted by Congress dating back to FY 2005. In the January Report, funding enacted by Congress for FY 2005 was reported to be \$6.8 million dollars whereas, in the June Report, this funding amount enacted by Congress was reported to be slightly over \$8 million dollars. For FY 2006 the funding amount reported in the January Report was reported to be \$7 million dollars whereas, in the June Report it was reported to be \$7.7 million dollars. In the January Report, CRS reported the funding request for FY 2007 was \$4.5 million dollars whereas, in its June Report, the funding amount reported as having been enacted by Congress for FY 2007 was \$6.5 million dollars. Thus, instead of the reduction in library funding anticipated by EPA for FY 2007 from that enacted by Congress in FY 2006, the actual funding reduction that occurred was \$1.2 million dollars but was actually \$2 million dollars more than what was requested for FY 2007 (the amount requested in FY 2007 was \$4.5 million dollars whereas, the amount enacted by Congress was \$6.5 million dollars (Un.Ex.16 and 18).

collections for digitization and to determine the appropriate disposition of materials using the criteria for reviewing its library collection set forth in the Agency's FY 2007 Library Plan and apprising that any materials identified for disposition should be held in their library until further notice. Additionally, Travers reiterated the importance of not recycling any library materials until further notice and also, not to make any changes in public access to library materials such as, reductions in hours, reductions in services, and reduction or the elimination of internet-based resources until further notice. Travers also informed recipients of this Memorandum of certain "outreach" efforts the Agency had theretofore engaged in, to wit: *attending the mid-Winter meeting of the American Library Association on January 19-21, 2007 at which an EPA team, consisting of staff from OEI and OARM-RTP made numerous presentations to foster a better understanding on the part of attendees as to what the Agency had already done and what it planned to do with regard to restructuring of its libraries; * that the team also met with the Union of Concerned Scientists (UCS) for a similar dialogue about the Agency's overall library modernization strategies; * informed that the week before (meaning sometime the week of February 20, 2007), she participated in a second briefing on EPA's library services and staff subsequently conducted a tour of EPA's Headquarters' libraries for Congressional staff; and *that the OARM Cincinnati team completed the first phase of document digitization on schedule. Travers indicated that she and other EPA administrators would be coming to EPA offices of the recipients of the Memorandum in the "next few days" as part of a data call to respond to GAO inquiries of their ongoing investigation. Travers also apprised that the Agency was planning to convene a meeting in March of 2007 with the Assistant Regional Administrators, the Communications Directors for those libraries where they manage the library, and the Federal Library managers for the purpose of further refining the long-term strategic vision for the entire EPA library network (Un.Ex.48).

By Memorandum dated April 6, 2007, EPA Deputy Administrator, Marcus Peacock apprised various Agency Management officials that because it was essential that common business processes be put in place to ensure that the Library Network continue to meet the needs of EPA staff and the public in order to ensure consistency in how the Agency manages its physical and electronic library tools and services, he was asking the OEI to do the following:

- Continue its leadership of the Library Network as its National Library Program Manager;
- Engage with internal and external stakeholders to ensure the Agency addresses any issues or concerns related to this effort;
- Recommend changes to the delivery of library services and management of EPA's Library Network; and
- Establish Agency-wide policies and procedures to effectively lead and consistently manage the Library Network (Jl.Ex.4).

On April 16, 2007, the OEI issued an *Interim Policy – EPA Library Network* that solidified the role of OEI as set forth in Peacock's April 6, 2007 Memorandum, to wit, that the Assistant Administrator for Environmental Information has the overall responsibility for the governance of the EPA Library Network and its related procedures and standards. It was noted that supporting procedures, standards and/or guidance documents were currently under development and would be issued with the final policy (Jl.Ex.6).

By letter dated April 26, 2007, Congressmen Bart Gordon, Henry Waxman, John Dingell, and James Oberstar requested an update from EPA Administrator Johnson on the management of the EPA library system and that this request be met by briefing Committee staff no later than May 4, 2007. The Congressmen then set forth a list of five (5) specific questions they wanted the Agency to address in its briefing (Un.Ex.17).

According to a PEER news release dated May 2, 2007, and under the headline, "EPA Quietly Resumes Dismantling Library System" (Un.Ex.27), PEER reported that despite promises to consult with Congress before proceeding with dismantlement of its library system, the EPA via new "interim" policies issued April 10, 2007 ordered the following actions contrary to the warning by the Agency's own enforcement branch about the risks of hampering environmental prosecutions:³⁴

- Direct EPA libraries to "disperse or dispose of" their physical collections and lay out procedures for offering EPA holdings to outside libraries and for recycling journals and other technical documents;
- Place all EPA libraries, including those serving agency laboratories, under a single political appointee, Molly O'Neill, the Chief Information Officer; and
- Discourage establishment of divisional or branch "mini-libraries" to prevent the physical accumulation of technical materials except at pre-designated "repositories".

In this news release, PEER Associate Director Carol Goldberg asserted among other things that, "EPA is determined to leap before it looks as it barrels ahead to shut libraries", noting that nearly one-third of EPA's 27-library network has been closed or had services reduced.³⁵ Goldberg further claimed that the end users of the EPA

³⁴ In addressing the EPA's plan to rely solely upon centrally maintained digitized documents PEER reported that the Agency's Office of Enforcement and Compliance (OECA) by memo dated April 9, 2007 referenced three (3) primary concerns it had about the negative effects on ongoing pollution prosecutions, to wit: (1) information access, especially to original documents; (2) timeliness of services, worrying that the centralized system EPA is espousing may not be able to meet tight court imposed deadlines; and (3) cost and funding, pointing out that uncertainties surround how much EPA's centralized all-digital system will cost and how it will be funded.

³⁵ In point of fact, the record evidence does not support PEER's claim that EPA shut anymore libraries or reduced hours or services at anymore libraries than it had already done so by the very start of the fiscal year 2007, specifically by October 1, 2006. In another misleading statement by Goldberg, she referred to the number of libraries in the Agency's Library Network as totaling to 27 when that number had been reduced to 26 with the closure of Region 2's Edison, New Jersey library which had occurred in FY 2004 (Un.Ex.16)

libraries – the Agency’s own specialists as well as the academic community and the public – had been excluded from all decisions about the future of EPA’s incomparable library network.³⁶

In a July 6, 2007 issue of *Inside EPA*, an online publication, it was reported that on June 25, 2007, EPA joined the Union in the mutual selection of an arbitrator to hear the matter of the Union’s grievance (of August 16, 2006) alleging the Agency refused to bargain over the changes it made and intended to be made to its Library Network. This issue also reported that on the following day, June 26, 2007 the FLRA issued a notice of hearing to be held on August 14, 2007 in Chicago before an Administrative Law Judge on the Union’s complaint that the Agency “failed and refused to participate in selection of an arbitrator to hear the library grievance, thereby committing an unfair labor practice.”³⁷ In explanation as to the reason why the Agency had joined the Union in selecting an arbitrator just one (1) day prior to the FLRA’s ruling to hold a hearing on the Union’s ULP charge, it was reported that an EPA spokeswoman stated it was “In the interest of resolving the ULP charge.” It was also reported from an unidentified source that the Union’s motivation for filing the ULP was to “bring the Agency back to the bargaining table” to get an agreement for the EPA to reopen closed libraries, as well as to commit to not close any more libraries in its network (Un.Ex.26). However, even after Administrative Law Judge, Richard Pearson ordered the Union to file a motion for summary judgment (see fn.34, *supra*), it was reported in the August 27, 2007 issue of *Inside EPA* (Un.Ex.24) that the Union is still pursuing the unfair labor practice charge notwithstanding that the Agency finally entered into the process of selecting an arbitrator in the hopes that an FLRA ruling in favor of the Union “would lend credence to our claims” in the upcoming arbitration talks that EPA did not consult with the Union prior to closing libraries and did not adequately consider or address the impact that closures would have on employees. Further, it was reported, the Union was hoping for a favorable FLRA ruling ahead of the arbitration, scheduled to be held September 25, 2007 in Chicago explaining that the Union pushed for Chicago as the venue for the arbitration because EPA had already closed the Region 5 library and it could bring in Region 5 witnesses to testify about the impacts on employees relative to the library closure.

At the arbitration convened, as scheduled, on September 25, 2007, the Union presented, among its five (5) witnesses, two (2) Region 5 employees, Civil Investigator, Margaret Herring and Warren W. Layne, Chemist to testify as to adverse impacts closure of the Region 5 library had on the performance of their

³⁶ This claim appears dubious in light of other record evidence referenced elsewhere hereinabove of outreach efforts undertaken by the Agency as a result of Congressional scrutiny by hearings conducted and the ongoing investigation by GAO, initiated by a request from the Congress.

³⁷ In a subsequent issue of *Inside EPA*, issue date, Monday, August 27, 2007, it was reported that Administrative Law Judge Richard Pearson ruled he would indefinitely postpone the August 14th hearing as he issued a decision on August 7, 2007 wherein, he stated, a hearing in this case does not appear to be necessary since he had enough information to reach a decision. Pearson then ordered the Union to file a motion for summary judgment by August 17, 2007 and gave EPA until August 31, 2007 to file any cross-motions or a motion to pursue a hearing (Un.Ex.24).

work. Herring testified that in performing her duty of identifying parties that are liable for hazardous waste sites, that prior to the closing of Region 5 library, she was able to access business news and Dunn and Bradstreet reports she requested of the librarians and that she was able to secure inter-library loans facilitated by the librarians upon request. Herring attested that, even though, to date, she has not had occasion to obtain an inter-library loan since the closure of the Regional library, a period now of one (1) year, she has educated herself in the procedure of securing an inter-library loan if the need arises by utilizing the services provided by the Environmental Research Center located at Cincinnati, Ohio which services both Regions 4 and 5, Atlanta (Southeast) and Chicago (Midwest) respectively. Herring asserted that for her purposes, the online services available can only be used by her to a limited extent. As to her use of maps, while the Cincinnati librarian informed her of the Agency's ability to digitize text, she did not inquire of the librarian as to whether maps could be digitized. Herring noted that there is a form available online to fill out to reference what information is being sought and requested. Witness Warren Layne, an expert in the field of nanotechnology and a regional sampling coordinator of which one of the functions is to review chain of custody, testified he was a mass user of the regional library utilizing its services, on average, three (3) to four (4) times a week. According to Layne, when the regional library was open and operating, he found the services of the librarian to be invaluable and noting that the library had information on designated national sites and quality assurance plans. Since the closure of the regional library, Layne conceded he could obtain information from books and journals online and secure inter-library loans as well, but noted that obtaining inter-library loans takes time. Layne asserted however, that prime sources of journals are no longer available and that now a monetary payment is required to access certain journals. And even though he can order a needed book through utilizing the inter-library loan procedure, in noting that such a procedure is bureaucratic in nature involving time for approval, Layne attested that on one occasion, he actually personally paid fifty dollars (\$50.00) for a book he wanted in the course of performing his duties. Under cross-examination, Layne averred that the crisis he believed resulted from the closure of the Region 5 library was the impact it had on the public and not the impact it had on his work.³⁸

With respect specifically to what took place in advance of the Agency closing Region 5 library, initially slated to be the first of the EPA library closures, the record evidence reflects that Region 5 Labor Relations Specialist Martin Mills, by e-mail attachment dated March 14, 2006 sent to AFGE, Local 704 President John J. O'Grady, a Region 5 specific paper concerning the Library services and from Headquarters, an OEI Library Service Delivery Change Fact Sheet as a means of providing Local 704 with current information concerning library services (See

³⁸ As to this testimony regarding the impact closure of the Region 5 library had on the public and the testimony proffered in part by Union witness Paul Scroggins, President AFGE Local 1003 (Region 6 - Dallas) that when the libraries in question were open and functioning the services they provided were accessible to the public, the Arbitrator ruled that the grievance before him (JLEx.24) was limited to any alleged adverse impacts on AFGE bargaining unit employees and had no relevance to impacts such closures may have had on the public and public access.

Ag.Ex.2). Two (2) weeks later, by e-mail to a number of AFGE bargaining unit members in Region 5, including Union representative, Cheryl Allen, dated March 27, 2006, O'Grady apprised he needed a volunteer to meet with Jeff Kelley, Chief, Public Information and Education Section, Office of Public Affairs for discussion of the pending Region 5 library closure (Ag.Ex.3). Jeff Kelley testified that he, Mills, and Cheryl Allen did, in fact meet to discuss details of how the closure would be handled and the various issues the closure presented. Kelley asserted that with respect to the issue of the Region 5 library closure, he only had discussions with O'Grady and Allen and never spoke with any Union official from Council 238. With respect to this latter point, Kelley maintained that O'Grady never indicated to him that the appropriate level of authority on the Union side to consider the matter of the Region 5 library closure would be at the Council 238 level.³⁹

Union witness Paul Scoggins, President of AFGE Local 1003, EPA Region 6, Dallas, an environmental engineer testified that in the performance of his job duties as a toxicologist, he engages in research and, as such, prior to the closing of Region 6's library, he found it very beneficial to be able to access the services of the library and to consult with the librarian. He also noted that when needed, the library would facilitate obtaining inter-library loans. Scoggins attested that in the early stages of EPA's planning to effect changes to its Library Network he compiled the comments of a number of Region 6 employees concerning changes in Region 6's library operations implemented as far back as November of 2003 (See Un.Ex.4 and fn.5, *supra*). Additionally, Scoggins testified that in reaction to the then impending closure of the Region 6 library, he compiled a number of comments from bargaining unit employees protesting the closure, which comments were forwarded to Library Manager Patricia D. Birkett and Manager Frank M. Truesdale both in Baton Rouge, Louisiana (See Un.Ex.3). Scoggins related that desk-top services are available to access information, that he has attempted to utilize the desk-top but has found it difficult to locate useful information due to the fact there is no librarian to assist him, that obtaining the information is a completely self-help effort. Scoggins related that without the assistance of a librarian, he finds the effort to obtain needed information tedious, and, as a result, he has sought instruction as to how he, in this self-help environment can obtain the information on in-door air quality issues he needs.

Mike Flynn, Director, Office of Information Analysis and Access (OEI) testified that, at the time the Agency developed the Draft of its *EPA FY 2007 Library Plan: National Framework*, OEI, by Memorandum dated June 2, 2006, sought input from the Unions representing the Agency's bargaining unit employees prior to the Agency making final decisions with respect to composition of the Framework

³⁹ The record evidence makes clear however, that O'Grady, Kelly, and Mills were all aware at the time they were in discussion with regard to the matter of the Region 5 library closure, that Council 238 had filed its demand to bargain nationally with the Agency over the closing and major reorganization of the EPA Headquarters' and Regional libraries (See Jt.Ex.1A), as Mills referred to this development in his e-mail to O'Grady and Kelley dated March 27, 2006, stating among other things that it was not known how this action by Council 238 would impact the discussions pertaining to the closure of the Region 5 library (See Un.Ex.47).

document and, thus, prior to it being sent out for further action in the Regions and Headquarters (see Ag.Ex.5). According to Flynn, he received only two (2) responses from the Unions, one from a NAGE local in Nevada (Local R12-135) and one from AFGE Local 1003, Region 6, Dallas (see Un.Ex.41). Flynn maintained he did not receive any feedback from AFGE Council 238.⁴⁰ However, Flynn related that in consideration of the feedback that was received from these two (2) Union sources as well as feedback from all others that responded, the Draft Framework document did undergo some revision (see Ag.Ex.8 and J.Ex.5). In other testimony, Flynn noted that OEI administers desk-top services for all EPA employees across the country. Flynn further noted that Region 5 library resources were sent to the repositories at the two (2) Environmental Research Centers, one at Cincinnati, Ohio and the other at Research Triangle Park in North Carolina.

As the Parties were unable to reach a mutually acceptable resolution of the subject grievance issue in its handling of the grievance at the various steps in the contractual grievance procedure, the matter comes now before this Arbitrator for a final and binding determination.

⁴⁰ It is noted that this Memorandum requesting feedback from the Unions nearly three (3) months after Council 238 had filed its demand to bargain nationally over the proposed changes in the Agency's Library Network (by letter dated March 16, 2006 from Charles Orzechoskie to Ruben Moreno J.Ex.1A), also informed recipients of the Memo that implementation of the Framework would vary by Region and at the Headquarters level which explained the reason why "impact and implementation" bargaining would take place separately in the Regions and at Headquarters (Ag.Ex.5). It is interesting to note with respect to this latter point, that less than two (2) weeks after Council 238 filed notice to bargain with EPA on a national level, Local 704 President O'Grady filed written notice to bargain on a local level over proposed changes to the Region 5 library (by letter to Martin Mills dated March 28, 2006, J.Ex.21). However, it is also noted with interest that, notwithstanding the Agency's explanation regarding the rationale for conducting bargaining on a region-by-region basis, the Agency, at the same time was corresponding with Roy, the designated representative of AFGE Council 238 regarding the Union's proposal to bargain impact and implementation issues pertaining to the Agency's library reorganization plan on a national level, albeit that the Agency acted to forestall the commencement of such national level bargaining which had yet to occur by the time this arbitral proceeding convened, September 25, 2007, an elapsed period of time of eighteen (18) months from the time the Union filed its written demand to the Agency to enter into such impact and implementation bargaining.

CONTENTIONS

UNION'S POSITION

In its post-hearing brief, incorporated in pertinent part herein as Appendix A, the Union submits the Agency violated applicable sections of Article 45 of the Master Collective Bargaining Agreement (Jt.Ex.1) by not permitting the convening of impact and implementation bargaining over the changes attendant to the Agency's reorganization of its Library Network, as such changes affected adversely, the working conditions of bargaining unit employees. The Union asserts the Agency has not complied with any form of negotiations in response to its demand to bargain as the Agency never responded to suggested ground rules nor, did the Agency make itself available for any meetings. Additionally, the Agency refused to enter into the selection of an arbitrator until forced to by a FLRA administrative law judge's ruling for the purpose of adjudicating this subject grievance; instead, electing to question the composition of the FMCS arbitration panel and the venue of the arbitration. The Union argues that by refusing to enter into national level negotiations, the Agency specifically violated Section 5 of Article 45 by not recognizing the Union's designated representative for bargaining matters at the national level, Council 238 President, Charles Orzechoskie. Moreover, the Union claims that the Agency's refusal to negotiate and bargain, in good faith, issues of impact and implementation attendant to the reorganization of its Library Network resulted in the Agency having violated a number of provisions set forth in the FLRA Statute.

Based on the foregoing argument asserted, the Union requests the Arbitrator to order the remedy specified in the subject grievance (Jt.Ex.24).

EMPLOYER'S POSITION

In its post-hearing brief incorporated in pertinent part herein as Appendix B, the Agency advances the position that the decision to reorganize its Library Network was an exercise of a management right, and that, as the reconfiguration of library services represented a change in the means and technology by which employees would accomplish their assigned work as opposed to adversely impacting their working conditions, the substantive decisions that were made with respect to said reconfiguration represent, at best, permissive topics of bargaining in accord with 5 USC 7106(b)(1). The Agency asserts that at no point did it ever communicate to the Union it was electing or had elected to bargain over the substance of its decisions with respect to the libraries. The Agency asserts the Union claim it violated the Master Collective Bargaining Agreement (Jt.Ex.1) by failing to negotiate appropriate arrangements is invalid, as nowhere in the list of bargaining demands as set forth in Joint Exhibit 1A had the Union identified any of its proposals as

constituting appropriate arrangements which, by a FLRA case ruling, it is obligated to do. The Agency further submits that the Union's claim it violated 5 USC 7117 (a)(1) by failing to bargain in good faith and/or appropriate arrangements for employees affected by the exercise of any authority under 5 USC 7106 (a) is unsubstantiated as the Union failed in its burden at arbitration to show how it engaged in bad faith bargaining over the issue of library service reconfiguration.

In concluding argument, the Agency asserts the Union failed to produce any evidence that supports its grievance and, as such, it respectfully requests that the subject grievance be denied in its entirety.

OPINION

The record evidence well documents that the initiative undertaken by the EPA to potentially fashion changes to its Library Network occurred as early as FY 2003 and that this initiative was prompted by two (2) very significant factors, to wit: (1) the recognition that appropriations in its budgets for maintaining its total library resources were in decline and expected in future fiscal years to be decreasing in amount, making it ever more tenuous to hold to the status quo; and (2) that developments in technology opened the possibility of meeting this decline in budgetary appropriations by transitioning its library resources from maintaining duplicative physical library resources, in part, to online electronic form by digitizing a percentage of these duplicative print material holdings and, implementing other accompanying changes such as, for example, establishing depositories to maintain print materials, reducing the number of its contractor librarians, shifting library holdings from one physical library facility to other physical library facilities, providing a Library Network procedure for servicing requests for interlibrary loans, and establishing a procedure for remote librarian assistance whenever needed by professional staff relative to their assigned research projects. In other words, the initiative to implement potential changes to its Library Network, which, in large part came to fruition in FY 2007, (noting that in FY 2004, Region 2 – the New York Region, closed its Edison, New Jersey library facility and Region 6 – the Dallas Region, reduced the number of library hours as well as the number of librarians from 2 to 1 which evoked protests from a number of employees, some of whom likely were AFGE bargaining unit employees and, in addition, Region 5 – the Chicago Region, noted in comments submitted to the Library Network Workgroup prior to July of 2005, that it had already instituted “substantial changes to its library” in response to FY 2005 budget cuts – see fn 11, p. 27), was not, in most respects, precipitously undertaken by the Agency, as said initiative commenced some three (3) years prior to implementing the majority of actual changes, which implementation by the Agency galvanized the filing of the instant grievance nor, were the changes proposed, under all the given circumstances over those three (3) prior years, made without considerable contemplation by those Agency staff charged with the responsibility of studying and making recommendations with respect to instituting potential changes. Having made this latter point however, the record evidence makes clear that even though the Agency proceeded with a good degree of caution and with a great deal of thought as to what changes should be implemented and how to implement such changes consonant with its contractual obligation, in part, pursuant to Section 2 of Article 5 of the Master Collective Bargaining Agreement (MCBA, Jt.Ex.1), specifically “to promote and improve Agency efficiency,” nevertheless, responsibility for undertaking the task of studying potential changes to the Library Network and then formulating an Agency-wide plan to implement recommended changes was insular in nature to the extreme, that is, confined strictly to managers within the Agency with virtually no input by other constituencies such as general public users of the EPA library network, other federal and public library systems, and, in particular and most importantly the several Unions representing the Agency’s bargaining unit employees (for purposes

of this arbitration confined to employees covered by the AFGE), who would be most impacted by the implementation of any of the proposed changes.

As noted in the preceding Background Section of this *Opinion and Award*, the first evidence of the Agency's acknowledged awareness, in writing, of the impact the coming changes in its Library Network would have on its employees, was memorialized by Region 5 Management in two (2) March, 2006 Memoranda directed to all Region 5 employees wherein, among other information contained in the Memoranda, it apprised that as a result of the forthcoming FY 2007 reduction in the Region's library funds, it was going to close its Regional library and indicated Management's intention to meet with AFGE Local 704 representatives to discuss the changes. This intention on the part of Region 5 Management was reinforced in an e-mail Memorandum dated March 14, 2006 wherein, Management "invited" AFGE Local 704 to join them in "pre-decisional" discussions to best meet the needs of the Agency's mission and its employees. As further noted in the preceding Background Section, nine (9) months prior to the issuance of the two (2) referenced Memoranda and the March 14, 2006 e-mail invitation to Local 704 to join in "pre-decisional" discussions, in a June, 2005 EPA Document titled, *Optional Approaches to U.S. EPA Regional Library Support*, the Agency was apprised that attendant to any of the options selected by the Regions in effecting changes to their respective libraries, one of the transitional activities that would be required would be consultation with the Regional Unions. Thus, the record evidence establishes with great clarity and without contravention that from the very beginning of its initiative in FY 2003, to consider making changes to its Library Network and continuing up until midway through FY 2006 when the Agency began laying the groundwork to effect the changes that had already been determined by it to implement, Management had precluded the Union, both on a national and local level, from assuming any role in the planning and decision-making stages relative to the reorganization of its Library Network and, consideration of the possible potential impacts such a reorganization would have on its bargaining unit employees.

The most significant aspect of the awareness on the part of Management at both the national level, as evidenced by its June, 2005 report, *Optional Approaches to U.S. EPA Regional Library Support* (Un.Ex.11) acknowledging the requirement to engage in consultation with the Regional Unions and, at the local level, as evidenced by Region 5 Management's seeking to have the Union join it in "pre-decisional" discussions, that there was a legitimate role for the Union to assume at some point in the process of reorganizing its Library Network, is the recognition by the Agency of the contractual obligation incumbent upon it pursuant to Article 45, Sections 1A and/or 1B of the MCBA (Jt.Ex.1), should the Union opt to invoke either or both of these Agreement provisions. The record evidence reflects that, in fact, upon becoming aware of the Agency's decision not only to close Region 5 library but also to close Region 6 library and the Headquarters' library, Council 238 did, in fact, by written notification to Ruben Moreno, the Agency's Director of Labor and Employee Relations dated March 16, 2006, invoke a demand to bargain the issue on a national level pertaining to the impending changes the Agency intended to effect in

its Library Network pursuant to Sections 1A and 1B of Article 45 (JtEx.1A). The record evidence further reflects that the Union's Region 5 local union, Local 704 also invoked Sections 1A and 1B of Article 45, to bargain on a local level on procedures and appropriate arrangements over the change in working conditions as a result of the closure of the Region 5 library by e-mail notification to Region 5's Labor Relations Specialist dated March 28, 2006 (JtEx.21). Thereafter, from the dates of filing both the demand to bargain the issue of the impending changes to its Library Network on both a national and local level up to August 16, 2006, the date Council 238 filed the subject grievance (JtEx.24), the record evidence reveals that the Agency stonewalled the Union with regard to permitting commencement of negotiations let alone allowing the Union a real and viable consultative role in the library reorganization process even though the record evidence as summarized in the preceding Background Section of this *Opinion and Award* is rife with instances of an intention by the Agency to engage the Union in bargaining the impact and implementation issues arising from the reorganization of its Library Network. These instances of the Agency's intention to engage the Union in impact and implementation bargaining pursuant to Article 45 Section 1B are as follows:

FIRST INSTANCE

In a June 2, 2006 Memorandum to a number of recipients which included Steve Roy, the appointed AFGE representative designated to negotiate impact and implementation issues with the Agency on a National level, David Mick, the Agency's counterpart to Roy on a National level apprised among other things that implementation of the "Framework" would vary by Region and the Headquarters' level explaining that, that was the reason why "impact and implementation" bargaining of actual library service changes would take place separately in the Regions and at Headquarters (emphasis by the Arbitrator). Mike Flynn, OEI Director of the Office of Information Analysis and Access referenced this Memorandum in his testimony asserting the purpose of this Memorandum was to seek input from the Unions representing the Agency's bargaining unit employees prior to the Agency making final decisions with respect to composition of the Framework document and, thus, prior to it being sent out for further action in the Regions and Headquarters. Flynn further asserted he received only two (2) responses from the Unions, one of which was from AFGE Local 1003, located in Region 6, Dallas but received no response from AFGE Council 238. Flynn maintained that the input he did receive did result in some revision of the Draft Framework leading to development of the Final version. However, the Arbitrator is persuaded that this effort by the Agency to seek input from the Union at this late stage in the library reorganization plan fell far short of what the Union was seeking and had been seeking for nearly three (3) months at that time and, that was, to engage in bargaining the impact and implementation issues pertaining to the impending forthcoming changes in the Agency's Library Network. The Arbitrator notes that even if the Agency was adhering to Section 7113 of the FLRA Statute by permitting the Union to present its views and recommendations regarding the impending changes to its Library Network and considering those views or

recommendations before taking final action, nevertheless, the Agency failed to comply with other provisions of Section 7113, in particular the provision set forth in sub-section (2)(B) which obligated the Agency to provide the Union a written statement of the reasons for taking the final action, here the implementation of the plan set forth in the Final Draft which the Union had explicitly requested in its written demand to bargain on a national level; specifically, the Union stated in Point (4) of its demand, that in accordance with Article 45, Section 2, it was requesting that the Agency explain the proposed changes and their impact on the bargaining unit to the designated Union representative (JLEX.1A). The record evidence makes clear that while bargaining unit employees generally understood the Agency was planning to effect a reorganization of its Library Network as a direct result of the anticipated significantly large reduction in budgeted funds for maintaining its Library Network, and perhaps in a general sense the options that each region might pursue in reacting to the budget cut, nevertheless, the Agency at no point in time provided the Union with in-depth reasons addressing the specific changes it was prepared to implement on a regional and Headquarters basis in response to the reduction in library funds. For example, the Agency only informed the Union it was closing the Region 5 Library but did not provide an explanation as to the reason or reasons why this regional library as opposed to closing a library in one of the other regions or, more specifically, the reasons underlying the decisions pertaining to the disposition of its library holdings in the process of dismantling the physical site.

The Arbitrator is persuaded that through-out the entire library reorganization process the seeds of which were sown as early as FY 2003, nearly all the input contributed by both the Union and some of its bargaining unit employees to the Agency's library reorganization plan was in reaction to notification of changes at the time they were being instituted as opposed to thoughtful responses pertaining to the long-term implications of how the changes would impact their overall working conditions but, more specifically, the manner in which they would be performing their job. Two (2) prime examples drawn from the record evidence support this finding, to wit: first, during early June of 2006 while still in the phase of the Agency's solicitation of comments, (albeit it a seemingly tepid solicitation) from the Union and its bargaining unit employees regarding the draft "Framework" document, the Agency issued an e-mail announcement dated June 13, 2006 informing Region 2 employees that the Region would be closing its library reading room and regional staff would have limited access to the physical collection and that public access to the library would be discontinued. Additionally, the Region would not be adding any additional titles or resources to the physical collection and its website would be removed from both the Internet and Intranet. There is nothing in the record evidence to show that the Agency engaged the AFGE Local Union in Region 2 in bargaining the impact and implementation of these changes; second, in and around this same time period, Region 6 apprised its employees it would be closing its library which, in reaction, was responded to by a number of employees by e-mail collectively urging that the library not be closed. The very fact of this reaction underlies the fact that the Agency did not engage the AFGE Local Union in Region 6 in bargaining the impact and implementation of this change.

SECOND INSTANCE

In conjunction with the above First Instance, Mick followed up his June 2, 2006 Memorandum two and a half weeks (2 ½) later with an e-mail correspondence to Roy dated June 19, 2006 wherein, he stated, it was his understanding that Roy had an interest in negotiating over library service changes and inquired as to whether Roy was seeking negotiations on the "Framework" document or seeking to bargain on behalf of AFGE locals in response to a proposed regional library change (emphasis by the Arbitrator). The Arbitrator finds this inquiry by Mick somewhat puzzling at best since it was abundantly clear in Council 238's written demand to bargain submitted by Council President Orzechoskie to EPA Director of Labor and Employee Relations Ruben Moreno approximately two and a half (2 ½) months before, that the Union was invoking its contractual right pursuant to Article 45 of the Master Collective Bargaining Agreement (JLEs.1), to bargain on a national level, the closing and major reorganization of the EPA Headquarters' and Regional libraries. The only aspect of this demand that perhaps was unclear since its submission on March 16, 2006 was that Orzechoskie had indicated that Union official, Maureen Kiely of AFGE Local 3607 from the Agency's Region 8 had been designated as the Chief Negotiator for the issues identified in the Demand to Bargain but that sometime after March 16, 2006, Steve Roy replaced Kiely as the Union's designated Chief Negotiator. However, the very fact that Mick knew to correspond with Roy regarding his "interest" in negotiations indicates that the Union's change in its designated Chief Negotiator posed no problem for the Agency.

In any event, in another acknowledgement by the Agency that the Union possessed the contractual right under the provisions of Article 45 of the Agreement (JLEs.1) to bargain over impact and implementation issues, Mick requested of Roy in this June 19th Memorandum, that whatever his bargaining interests were, that he identify his interests in conjunction with Article 45, Section 2 of the Master Collective Bargaining Agreement (emphasis by the Arbitrator). In response, by a reply e-mail on the same date (June 19, 2006), Roy informed both Mick and Mike Flynn that it was the Union's desire to move forward with commencing negotiations and asked when they both would be available to initiate negotiations. From that point forward, therein ensued the stonewalling on the part of the Agency with regard to forestalling the commencement of impact and implementation bargaining as the record evidence clearly and unambiguously establishes that Mick, for whatever his reasons, engaged in deflecting repeated entreaties by Roy to begin the negotiation process. A cursory review of just the dates involved in the process suffices as proof to support this finding. Although Council 238 filed its Demand to Bargain March 16, 2006, it was not until three (3) months later, June 19, 2006, that Mick sent his inquiry to Roy asking what was the Union's intention with regard to negotiations. Thereafter, it was not until July 18, 2006, one (1) month later that Mick responded to Council 238's Demand to Bargain. Significantly, in this response, Mick represented that once the details of the Headquarters' Library closing were determined those details would be shared with the Union for appropriate impact and implementation bargaining (emphasis by the Arbitrator).

With regard to libraries at the regional level, Mick represented that once local library service change plans were developed and completed, the plans would be shared with the Union for the purpose of bargaining impact and implementation issues attendant to library service changes (emphasis by the Arbitrator). One (1) month later, August 24, 2006, nine (9) days after the Agency released the final version of its library reorganization plan and eight (8) days after the Union filed the subject grievance addressing the Agency's unwillingness to enter into impact and implementation bargaining over the closure of libraries and change in library services at those libraries that remained open, Council 238 became aware by second-hand notice from its Washington, D.C. local, Local 3331, that the D.C. Headquarters' Library would be closed for general access effective October 1, 2006. This information prompted Council 238 President, Orzechowski to correspond with Mick by e-mail indicating that the representation he made to Ray on July 18, 2006 that, once the details had been determined relative to the closure of the Headquarters' Library they would be shared with the Union for the purpose of bargaining impact and implementation issues was no longer appropriate and asking Mick when he intended to begin impact and implementation bargaining. It was not until October 16, 2006, two (2) months after this query by Orzechowski that, in an exchange of e-mails between Mick and Ray over an eleven (11) day period, Mick indicated his counter-proposal pertaining to the Union's demand to bargain regarding library service changes which he had promised would be submitted to the Union prior to October 16, 2006 was still unfinished. In a follow-up e-mail on October 27, 2006 Mick informed Ray he was still working on developing the Agency's counter-proposal. One (1) month later, on November 22, 2006 after receiving no counter-proposal from Mick and no response to nine (9) proposed dates in November he had suggested to commence negotiations, Ray informed Mick the Union was progressing the subject grievance addressing the Agency's unwillingness to enter into impact and implementation bargaining to arbitration.

The above referenced dates beginning with March 16, 2006, the date Council 238 filed its Demand to Bargain and ending with November 22, 2006, the date the Union progressed the subject grievance to arbitration which eventually resulted in this arbitral proceeding, clearly shows that the Agency forestalled impact and implementation bargaining for eight (8) months. Thus, even though the Agency led the Union to believe it intended to engage in such bargaining, the Agency never made good on this intention even up to the present time of this arbitration hearing, an elapsed time and further delay of yet another nine (9) months.

THIRD INSTANCE

The Agency also forestalled engaging the Union on a local level to negotiate issues of impact and implementation as evidenced by events surrounding the closure of EPA Region 5's library. The record evidence reflects that in conjunction with the Demand to Bargain filed by Council 238 which has jurisdiction over all the EPA, AFGE local unions, Local 704 on March 28, 2006 filed a local level Demand to

Bargain on the impact and implementation issues associated with the anticipated changes to the Region 5 Library. Although uncontested testimony proffered by Management witness Jeff Kelley, Chief Public Information and Education Section, Office of Public Affairs reflects that attendant to Local 704's filing its Demand to Bargain, he participated in discussions along with Region 5 Labor Relations Specialist, Martin Mills and Local 704's designated representative Cheryl Allen pertaining to details of how the closure of the Region 5 Library would be handled and the various issues the closure represented, nevertheless, mere discussions do not rise to the level of negotiations that would entail bargaining of impact and implementation issues and matters. Discussions connote an exchange of information only, whereas, bargaining certainly encompasses discussions but also entails an exchange of proposals and counter-proposals that facilitate a give and take exchange whereby each of the parties involved in the bargaining process has an opportunity to secure some accommodation of its interests through compromise. There is no evidence before the Arbitrator that such bargaining occurred relative to the closure of the Region 5 Library either at the time the details of the closure were developed or, at the time in advance of the actual physical dismantling of the library.

FOURTH INSTANCE

In addition to forestalling and then never entering into impact and implementation bargaining with the Union over the reorganization of its Library Network, the Agency continued in its obstinacy in dealing with the Union by frustrating the grievance / arbitration procedure, which is viewed by many advocates in the labor-management community, as well as neutrals in dispute resolution, as an extension of the collective bargaining process. The incontrovertible evidence reflects that not only did the Agency fail to adequately respond to the subject grievance when first filed by the Union back on August 16, 2006, but it also flouted its contractual obligation to enter into the process of mutually selecting an arbitrator once the Union progressed the grievance to arbitration. Section 2 of Article 43, the Grievance Procedure clause of the Master Collective Bargaining Agreement (JLEx.1) provides for the right of either the Union or the Agency to initiate a grievance and Section 1 of Article 44, the Arbitration clause provides for the right of either the Union or the Agency to progress a grievance to arbitration that is not resolved in the grievance procedure. Section 2 of Article 44 provides for the procedure the Parties are to follow in selecting an arbitrator and it is this procedure that the Agency simply, by its unresponsiveness, refused to participate in until finally forced to do so as a result of the Union filing an Unfair Labor Practice charge against it with the Federal Labor Relations Authority. The Agency's conduct in this regard can be characterized as highly resistant to any effort by the Union to gain entry into any aspect of the process pertaining to its initiative to reorganize its Library Network, notwithstanding the Agency's self proclaimed recognition that in accord with applicable provisions of the Master Collective Bargaining Agreement,

specifically the applicable provisions of Article 45, the Union had (and still has) a legitimate role to play in this initiative.

As if the Agency's conduct as evidenced by the above enumerated four (4) instances was not bad enough, the fact that, in addition to precluding the Union from entering into impact and implementation bargaining pursuant to its contractual right to do so as provided for in Article 45 of the Master Collective Bargaining Agreement (Jt.Ex.1), pertaining to the reorganization of its Library Network, the Agency compounded the err of its ways by instituting changes attendant to its reorganization initiative unilaterally without the benefit of legitimate Union input. Such unilateral changes were implemented over much of the time period the Union was seeking to enter into impact and implementation bargaining with the Agency up to and including the period of time leading to this arbitral proceeding. As a consequence, substantial changes were effected to seven (7) of the ten (10) Regional libraries and two (2) additional libraries, to wit: the EPA Headquarters' Library and the Chemical Library located in Washington, D.C. The Arbitrator wishes to make very clear that pursuant to applicable provisions of the FLRA Statute, the Agency possessed the right to devise a reorganization plan for its Library Network and to devise that plan without the participation of any Union representatives. In fact, such an undertaking on the part of the Agency is to be commended as the initiative to transition its library resources is consonant with that part of any federal agency's charge to conduct its operations in the most efficient manner. Furthermore, many of the changes undertaken are consonant with the changes in technology and the different way in which information is accessed today as compared to when the Agency was first established 38 years ago back in 1970. The Arbitrator notes that even the Senators investigating the Agency's library reorganization plan expressed they fully supported the goal of modernizing the management and delivery of information services within the government and to the public noting that, information and communication technologies provide opportunities for the government to utilize and distribute information more efficiently both internally and externally. However, what the Agency did not have the right to do given the applicable provisions of Article 45 of the Agreement (Jt.Ex.1), was to preclude the Union from participating in bargaining the impact and implementation of the changes contained in the reorganization plan prior to the Agency effecting the changes. The proffered testimony by Union witnesses in addition to the documentation of the introduced and received exhibits into the evidentiary record of these proceedings, provided sufficient evidence to conclude that the changes effected by the Agency associated with the reorganization of its Library Network did, in some profound ways, affect the working conditions of the Union's bargaining unit employees.

Based on the foregoing discussion, the fact circumstances as presented, clearly demonstrates that the Agency acted in bad faith in the manner in which it dealt with the Union as it pertained to the implementation of changes attendant to the reorganization of its Library Network that adversely impacted the working conditions of its bargaining unit members. However, the very real problem now is

to fashion a remedy that makes sense given the present state of affairs. It is not realistic under the present circumstances with so many changes having already been implemented over now a period of nearly two (2) years from the time the Demand to Bargain on a national level was initiated by the Union to honor the remedies requested by the Union in this instant grievance, as it would be impossible for the Agency to comply with reopening the libraries that were physically dismantled and closed and, while it would be difficult, but not impossible to restore the function and hours of operations at the libraries in Regions 1, 2, 3, 4, 9, and 10, doing so would be highly impractical given budgetary constraints. If going forward there are still changes anticipated to be implemented to the Agency's Library Network then the remedy requested of ordering the Agency to enter into good faith impact and implementation bargaining over such changes is a viable one. Additionally, the Arbitrator would also honor the Union's requested remedy that he retain jurisdiction of this subject matter until the conclusion of such negotiations. The Arbitrator would, in addition to this requested remedy, offer his services as mediator if the Parties were amenable to mediation of any related impending issues.

AWARD

Based on the rationale set forth in the preceding Opinion Section, the Arbitrator finds that the Agency did violate applicable provisions of the Master Collective Bargaining Agreement (JLEEx.1) when it acted to forestall and preclude engaging the Union in impact and implementation bargaining pertaining to issues attendant to the reorganization of its Library Network. In so finding, the Arbitrator rules to sustain the substance of the grievance but, as indicated in the preceding Opinion Section, ordering the remedies initially sought by the Union is, at this point in time, not viable. As further indicated in the preceding Opinion Section, the Arbitrator orders the following:

- Should there exist at the present time, or arise in the future, issues attendant to the reorganization of the Agency's Library Network that directly affect and may potentially have an adverse impact on the working conditions of bargaining unit employees, the Agency is ordered to engage the Union in impact and implementation bargaining in a timely manner.
- The Arbitrator retains jurisdiction of this matter until such time as any related impending issues encompassed by this grievance are resolved. Should any related issues remain unresolved and those issues be remanded to the Arbitrator, the Arbitrator shall either render a final and binding decision or, at the mutual requests of the Parties, attempt a mediated settlement of the issue or issues.

SUBSTANCE OF GRIEVANCE SUSTAINED


George Edward Larney
Arbitrator

Chicago, Illinois
February 15, 2008

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CONTENTIONS

UNION'S POSITION

In its post-hearing brief incorporated in pertinent part herein as Appendix A, the Union submits that by the Agency's unilateral implementation of changes to its Library Network, specifically the physical closure of Headquarters' and Regional libraries as well as a technical library and the reduction of services in a number of the remaining physical libraries, the Agency instituted a change in the working conditions of its bargaining unit members, and given such a change, the Agency was obligated under the 1994 Master Collective Bargaining Agreement (Jt.Ex.1) to bargain not only the change in working conditions but also the impact of such change in working conditions as experienced by its bargaining unit members.

APPENDIX A

Arguments

Issue 1

When the Agency began to close EPA Regional and Headquarters libraries prior to negotiating with AFGE, it committed a breach of contract since this was clearly a change in working conditions. Between August 2006 and December 2006 EPA closed it's regional libraries in Chicago, Dallas, Kansas City, and EPA Headquarters along with the Fort Mead, Maryland technical library. In addition, EPA reduced the level of services at other EPA regional libraries (such as reduced hours of operation) in Regions 1, 2, 3, 4, 9 and 10.

Article 45- Section 8. states in all preparations, negotiations and other activities arising under this Agreement, the parties will be aware of their obligation to the public to conduct such activities in the most efficient and cost effective manner. EPA's actions on this matter have demonstrated the Agency's inability to conduct themselves consistent with the MCBA. EPA's actions fail to embody the spirit and intent of this section when one considers the FLRA's time to investigate and prosecute AFGE's ULP. Also the time and effort spent conducting this arbitration does not reflect "the most efficient and cost effective manner."

Witness testimony and (Jt. Exh. 16, Jt. Exh. 17, Jt. Exh. 18, Un. Exh. 3, and Un. Exh. 4) clearly showed that there was a change in working conditions.

- a. Some bargaining unit employees no longer had physical access to their historically available EPA library and their research must be done on-line.
- b. Even if most documents are eventually reproduced and digitized, which has yet to happen, there are resulting adverse impacts such as access to the documents, availability of unique documents, and the timeliness of receiving the documents.

- c. There is no longer a librarian to assist bargaining unit members to efficiently search the internet, search the EPA collection and quickly respond to employee requests for information.
- d. Some copyrighted materials can not be legally digitized and provisions on how to access those library materials are not clear.
- e. Witness testimony also indicated that there are delays in obtaining "loaner" copies which will adversely impact employees on tight timelines.
- f. Some bargaining unit employees may need additional training in conducting computer research (there is no indication when and if this training is being provided.)
- g. Maps, photo's, charts and other unique information cannot be easily digitized and therefore might be lost or inaccessible to employees.
- h. Locations within EPA who maintain physical libraries may give their employees an advantage over bargaining unit employees located where no physical library exists.

Issue 2

The Union believes that we had the right to demand negotiations concerning the proposal to close EPA libraries, under Article 45, Section 1. However, in the alternative if the Agency attempts successfully to claim that the library closings did not constitute a change in the substance of an otherwise negotiable personnel policy, practice or working condition, then the Union believes that Article 45 Section 1B applies, because as indicated above the decision to close libraries created an adverse impact on bargaining unit employees.

The Statute that sets the basic parameters of the of the relationship is 5 USC 7114(a)(4):

"Any Agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purpose of arriving at a collective agreement. In addition, the agency and the exclusive representative may determine techniques, consistent with the provisions of Section 7119 of this title, to assist in any negotiation."

Within that basic duty of the parties to meet and negotiate, there are some subsidiary duties and rights, established at 5 USC 7114:

The duty of an agency and an exclusive representative to negotiate in good faith under subsection (d) of this section shall include the obligation-

(f)

- (1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;
- (2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;
- (3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays; ...
- (5) if agreement is reached, to execute on the request of any party to the negotiations a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

Clearly the Agency has not complied with any form of negotiations, in response to AFGE demand to bargain. In fact, the Agency's actions appear to have deliberately led to unnecessary delays by, never making themselves available to meet with the Union, refusing to select an arbitrator, questioning venue, and not responding to the Union's suggested ground rules. Any efforts which have moved this issue closer to resolution has been made by the Union calling upon our legal rights to have third party intervention in these negotiations. It is the Union's belief, that it wasn't until we filed a ULP against the Agency with regard to the Agency not selecting an arbitrator and the FLRA issued a complaint against the Agency, that this arbitration has taken place.

The above duties are upon the Agency and the Union's exclusive representative as set forth in the MCBA Article 45 Section 5:

Section 5. The parties agree to recognize each other's duly authorized representatives. At each location, the parties shall designate an authorized agent. At the Agency and national levels, the parties shall designate an authorized representative. All dealings between the parties will take place between the appropriate authorized representatives unless an authorized representative designates another individual to act in his or her place. Understandings reached by unauthorized individuals will have no force and effect unless approved by the authorized representative of the parties. The parties will advise each other of their respective authorized representatives at the local levels at least annually. The parties will notify each other of their authorized Agency or national level representative in writing and such authorization will remain in effect until revoked.

In accordance with Article 45, Section 5, the designated authorized Union representative

is John Gage, President AFGE, who in turn designated Charles Orzechoskie as his authorized representative (Un. Exh. 2). For this matter the Agency indicated that Dave Mick would be negotiating on the Union's demand to bargain on the library matter.

By refusing to bargain with AFGE on the libraries, we believe that the Agency further violated Article 45, Section 5 by not recognizing the Union's duly recognized representative. At a minimum, the Agency should have met with the Union's authorized representative and explained to the Union why the Agency thought that if there were to be negotiations, they should take place locally. While the Union totally disagrees with that position, if that was the agency's position, it should have formally been presented at the table. Negotiations do not encumber issues being decided unilaterally by the Agency. What the Agency did was paramount to failing to recognize the authorized representative.

At the arbitration hearing, we heard Mr. Mick raise the issue of arbitration venue. The MCBA is silent on this matter as acknowledged by Mr. Mick. Therefore, when Mr. Mick made suggestions regarding the venue on future arbitrations it was not clear to the Union if the sentence in Article 45, Section 5 might not apply, which states that "understandings reached by unauthorized individuals will have no force and effect unless approved by the authorized representative of the parties." Mr. Arron Helm has been designated as the Agency's representative for the MCBA negotiations. The Union believed that, until Mr. Helm intervened or an Agency authorization clarification took place, that Mr. Mick's proposal on venue was premature. The Union has received no written authorization designating Mr. Mick to negotiate the MCBA.

Issue 3

AFGE Council 238 consists of 11 AFGE Locals from across the county at different EPA facilities. As such, AFGE Council 238 is a consolidated bargaining unit authorized to negotiate on national issues impacting all AFGE EPA Locals and their interests. This authority arises from 5 U.S.C. Section 7113, national consultation rights. AFGE has been accorded exclusive recognition from the FLRA under the Statute, which as stated above (Un. Exh. 2) has been delegated to Charles Orzechoskie, President AFGE Council 238. EPA's refusal to acknowledge AFGE's authority has placed the Agency in violation of this section. EPA has failed to comply with section 7113 in its entirety.

Clearly the library closure and change in library operating hours is a national issue. The planning documents admitted into evidence for example (Jt. Exh. 5, Un. Exh. 10, Un. Exh. 11, Un. Exh. 12, Un. Exh. 13,) demonstrate that the library closure and change of operations is a national issue, requiring national level negotiations. These documents are produced in consultation with the Regions and Labs from EPA Headquarters ("The EPA National Library Network"). To this date EPA Headquarters conducts monthly conference calls with all of the EPA Federal Library Managers and every other month EPA Headquarters conducts EPA National Library Network conference calls with EPA managers and library contractors. In addition, EPA headquarters hired this past summer an EPA Library Network Federal Library Manager (Deborah Balsamo) located at EPA

Headquarters to coordinate library services, provide oversight, and conduct library contract monitoring.

Even Stephen Griffin, Labor Relations Officer for EPA Region 1 (Boston) has acknowledged that the library issue was an issue that required national negotiations (Jt. Exh. 25) by notifying Mr. Orzechoskie, but EPA Headquarters continued to ignore their duty to negotiate on a national level. Mr. Griffin made his official notice after AFGE made its demand to bargain on March 16, 2006. Please note that Stephen Griffin is not the designated Agency representative for this matter, Mr. Mick is the designated Agency representative.

The MCBA clearly specifies those areas that are appropriate for local negotiation (Jt. Exh. 1, such as Articles 12 and 14). Since the library issue is not specified for local negotiations it falls under national negotiations, especially when one considers the range and scope of such a decision to close libraries that are a public resource.

Jt. Exh. 6 dated April 16, 2007 (EPA Information Policy) is a national policy, issued by EPA National Headquarters Office dealing with EPA wide policy on libraries. This document alone gives AFGE a basis for demanding National bargaining on libraries.

AFGE has established a past practice and negotiated with EPA a number of national agreements such the "Performance Appraisal and Recognition System", "National Reasonable Accommodation Procedures", "Flexiplace", "electronic Official Personnel File" procedures, as well as the MCBA.

5 U.S.C section 7116(a)(5) states that it is an unfair labor practice for an agency -- to refuse to consult or negotiate in good faith with a labor organization as required by this chapter. Since EPA has refused to negotiate with the AFGE, it has violated this section of the law. (Jt. Exh. 20)

5 U.S.C. section 7117(a)(2) states that the Agency has duty to bargain in good faith and 5 U.S.C. sections 7117(d)(1) and 7117(d)(2) states that the Agency has a duty to consult at the national level. Since EPA has refused to negotiate with AFGE it has not complied with these three sections. (Jt. Exh. 20)

5.U.S.C. Section 7106(b)(3) does not preclude the parties from negotiating "appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials." The closure of libraries and reduced libraries services is clearly a change in working conditions requiring negotiations by the parties. (Jt. Exh. 20). The Union and the Agency have an obligation to bargain over the substance, impact and implementation over any future agency decisions as it relates to conditions of employment of unit employees.

When testimony was taken concerning the closing of the Chicago library, it was clear that as a result of the Chicago (EPA Region 5) closing of their library, some of the services which were provided by Region 5's library to Region 5 bargaining unit employees, will

now be available from EPA's Cincinnati office. EPA's witnesses stated that everything available to Region 5 employees will still be available through the Cincinnati office. However, since Region 5, Chicago Local 704, has no jurisdiction in the operation of Cincinnati, it would be impossible for AFGE Local 704 to negotiate the adverse impacts on their bargaining unit members, by the closing of their Regional library. Therefore, the AFGE entity which has been authorized to deal with issues crossing EPA Regional boundaries is AFGE Council 238, so recognized by the FLRA and designated by AFGE President John Gage. However, the Agency is trying to avoid negotiating with Council 238, and the result of this arbitration should include a directive that EPA negotiates with AFGE Council 238 consistent with the Statute and MCBA.

Reported Case Authorities

For reported FLRA decisions in which an agency fails to negotiate with a union that is the certified collective bargaining exclusive representative of a national consolidated unit. See *Department of Health and Human Services and APGE* [v16 p674] 16:0674(99) CA; *Food and Drug Admin., Northeast and Mid-Atlantic Regions*, 53 FLRA 1269, 1274 (1998); and *Dept. of Defense Dependents schools*, 12 FLRA 52, 53 (1983).

For a reported FLRA decision concerning the negotiation of changes in conditions of employment that affect more than one facility or originate above the facility level. See [v49 p923] 49:923(89)NG *NFFE, Council of VA Locals*, 49 FLRA 923, Proposal 2 [N].

Conclusion

There could hardly be a clearer case of violations of law and the MCBA. The EPA unilaterally closed EPA Regional and Headquarters libraries and reduced library access and services in other Regions before negotiating with AFGE. EPA chose not to negotiate with the Union on a matter of national importance and therefore violated the Statute and the MCBA. The EPA and the Union have entered into a labor agreement spelling out the procedures for negotiation, but it is impossible to negotiate with oneself. The MCBA and the Statute obligates the EPA to negotiate, but EPA will not likely negotiate with the Union until it is compelled to as was the case in selecting an arbitrator.

Finally, there is a compelling public interest in maintaining physical libraries which serve both Unions and the public. There is a compelling interest in having agencies negotiate such matters as library closures with Unions that represent the library users. Congress recognized this public interest which is codified in 5 U.S.C Section 7101. (Jt. Exh. 20).

In summation, the Arbitrator should rule:

- 1) The Agency should be ordered to initiate good faith negotiations with AFGE Council 238 for establishing procedures and appropriate arrangements concerning the changes to EPA library services and operations.
- 2) The Arbitrator should retain jurisdiction until the conclusion of said negotiations.
- 3) The Agency should be ordered to fully restore the function and reopen all of the closed libraries in EPA Headquarters, the EPA Headquarters Office of Prevention, Protection and Toxic Substances Technical library and libraries in Regions 5, 6, and 7 along with the Ft. Meade, Maryland technical library.
- 4) The Agency should be ordered to fully restore the function and hours of operations at those EPA libraries in Regions 1, 2, 3, 4, 9 and 10 where the hours of operations were reduced and services reduced.

APPENDIX BARGUMENTPOINT 1THE AGENCY DID NOT FAIL IN EXECUTING ITS BARGAINING OBLIGATIONS

The Agency's decision to close or otherwise reconfigure its system of libraries represented an exercise of its prerogative and its need to operate the Agency in a manner that best leveraged technological resources with available funding. As the Arbitrator agreed in the hearing, impact on the general public of Agency library closures or reconfiguration of services was not a matter within the scope of the instant arbitration.

As regards the impact on Agency employees, reconfiguration of library services represented a change in the means and technology by which employees, who utilized Agency library resources, would accomplish their assigned work. We would like to point out, then, that the substantive decisions made by the Agency, with respect to library service reconfiguration, represent, at best, permissive topics of bargaining (per 5 USC 7106 (b) (1)). While the Agency endeavored mightily to brief the Unions on its library reconfiguration activities, as brought forth in testimony from Agency witness Mr. Michael Flynn and as articulated in the "EPA FY 2007 Library Plan (Joint Exh. 5) conveyed via email to all Agency union contacts (Agency Exh. 5), at no point did the Agency ever communicate to its unions (including AFGE) that it was electing or had elected to bargain over the substance of its decisions made with respect to the libraries.

The Union claims in its grievance (Joint Exh. 24) that the Agency violated the Parties MCBA (Joint Exh. 1) at Article 45, Section 1A. That particular cite deals with employer-initiated changes "in the substance of otherwise negotiable personnel policy, practice or working condition not part of this agreement." As was mentioned in the immediately preceding paragraph, library service reconfiguration was and remains a permissive topic of bargaining

(negotiable, per 5 USC 7106 (b) (1) only at the Agency's election), the substance of which, the Agency has not elected to negotiate. As such, the Union's claim that Article 45, Section 1A was violated, we argue, is misplaced.

Next, the Union claims in its grievance (Joint Exh. 24) that the Agency violated the Parties MCBA (Joint Exh. 1) by failing to negotiate appropriate arrangements with the union... The Union did submit a list of bargaining demands regarding the libraries (Joint Exh. 1A). One particular proposal from that list demanded that the Agency "cease discussion of EPA library closures". However, that particular proposal goes to the substance of Agency decision-making on library services - again, a permissive topic of bargaining over which the Agency never elected negotiations. Another proposal from Joint Exh. 1A requests that the Agency, as regards library service reconfiguration, "explain the proposed changes and their impact...". The Agency's responds by asserting that particular request was honored in a variety of different ways: a) as was brought out by the testimony of Agency witness Mr. Michael Flynn, through personal briefings he delivered to the unions; b) through Joint Exh. 5 as conveyed by Agency Exh. 5; c) as was brought out by the testimony of Agency witness Mr. Jeff Kelly through informational briefings he had with representative of APGE's EPA-Chicago local; and, moreover, d) through engagement of the unions as evidenced in Agency Exh. 6; Agency Exh. 7; Joint Exh. 7 (message from David Mick to Agency headquarters union contacts, dated 8/24/06); and Joint Exh. 25. Nowhere, however, in the list of bargaining demands in Joint Exh. 1A or on any other document entered into the record for this case has the Union identified any of their proposals as constituting appropriate arrangements. For any union proposal to be considered an appropriate arrangement, it must be identified as such. See *APGE, Local 2663 and Veterans Administration Medical Center, Kansas City, MO, 31 FLRA 988 (1988)*. As such, we posit that the Agency did not violate Article 45, Section 1B from Joint Exh. 1.

Additionally, the Union argued in its grievance (Joint Exh. 24) that the Agency violated 5 USC 7117 (a) (1) by failing to "bargain in good faith and/or appropriate arrangements for employees affected by the exercise of any authority under 5 USC 7106 (a)..." First, we believe the issue of appropriate arrangements has been fully addressed in the immediately preceding paragraph. Second, as regards the Union's reference to 5 USC 7106 (a), the Agency believes, per its above-stated arguments regarding the library reconfiguration issue constituting a 5 USC 7106 (b) (1)-based permissive topic of bargaining, a reference by the Union to 5 USC 7106 (a) as being misplaced and, thus, not applicable to the instant case. On a similar note, the Agency still believes, despite not being sustained on a related objection at hearing, that the Union should not have been allowed to introduce at arbitration alleged statutory violations above and beyond that which were specifically referenced in their grievance and addressed by the Agency herein. Third, the Union failed to show in their grievance and failed to show at arbitration how the Agency engaged in bad faith bargaining on the issue of library service reconfiguration. What the Union has taken issue with is the substance of the Agency's decision-making as regards reconfiguration of library resources. The Agency appropriately engaged the Union on matters attendant to collective bargaining as evidenced by Agency Exh. 1, Agency Exh. 2, Agency Exh. 3, Agency Exh. 6, Agency Exh. 7, Joint Exh. 7, Joint Exh. 8, Joint Exh. 25, and the testimony of Agency witness Jeff Kelly as regards proactive measures taken by EPA-Chicago management to engage the Chicago APGE local on impact bargaining over closure of the EPA-Chicago library.

Aside from the bargaining demands referenced in Joint Exh. 1A to which the Agency has responded in the preceding paragraphs, the Union has utterly failed to show that notwithstanding: a) its having been briefed on library reconfiguration on multiple occasions by Agency witness Michael Flynn (and, in Chicago, by Agency witness Jeff Kelly; b) its having been updated through the conveyance of information provided at Joint Exh. 5 (via Agency Exh. 5); and c) its having been engaged by the Agency as evidenced through Agency Exh. 1, Agency Exh. 2, Agency Exh. 3, Agency Exh. 6, Agency Exh. 7, Joint Exh. 7, Joint Exh. 8 and Joint Exh. 25, it has never offered up either: a) what it believed to be and identified as appropriate arrangement bargaining proposals; or b) impact and/or implementation bargaining proposals.

It should be noted that in an attempt to "put to rest" the Union's concerns with the library reconfiguration initiative - notwithstanding the Agency's response (Joint Exh. 2) to the Union's grievance (Joint Exh. 24), the Agency tried, after several briefings on the libraries provided to the Union after its initial bargaining demand (Joint Exh. 1A), to elicit from the Union any "updated" bargaining interests it may have concerning the libraries (attachment: "Pertinent Documents Index", item #3). No new interests surfaced as the Union responded that its March 16, 2006 bargaining demands (Joint Exh. 1A) was still its focus for bargaining. Oddly enough, in that same message, the Union indicated it was still looking for a response to its bargaining demands (Joint Exh. 1A); however the Agency had previously responded several months earlier (Joint Exh. 8). Of perhaps additional interest to the Arbitrator, it should be noted that in the Agency's response (Joint Exh. 2) to the Union's grievance (Joint Exh. 24), I, on behalf of the Agency indicated to the Union that "to the extent Council 238 would like to submit to me updated national-impact bargaining proposals (or confirm no change in interests from March 16, 2006 list of bargaining demands), we are willing to entertain such proposals for the purpose of national-level collective bargaining." As was stated earlier in this paragraph, no new interests from the Union were ever submitted. Rather, the Union reaffirmed its interest in bargaining on its March 16, 2006 demands (Joint Exh. 1A) to which the Agency had previously responded per Joint Exh. 8.

POINT 2

THE UNION'S WITNESSES AND EXHIBITS DID NOT SUPPORT THEIR GRIEVANCE

Testimony provided by the Union's witnesses was in no way dispositive of the Agency having engaged in the transgressions alleged by the Union in their grievance (Joint Exh. 24). A common thread running through the testimony of Union witnesses Margaret Hering, Warren Layne and Paul Scoggins was that they had to cope with adjusting to the new technologies employed for accessing library resources. However, this testimony had absolutely no bearing on contract or statute violations alleged by the Union in their grievance (Joint Exh. 24).

Not only did the Union's witnesses not support their grievance, the Agency still contends that the Union's exhibits should not have been allowed for introduction into evidence as they lacked

probative value. In no way did the Union's exhibits support their grievance. For the most part, the exhibits were either copy of Agency library policy or letters, email messages, etc. from employees, members of Congress and the public, etc. supporting the Union's belief that the libraries should not be closed or otherwise reconfigured. While the Agency does not dispute the Union's right to hold its opinion regarding the libraries, the Union exhibits do not support allegations of Agency mis-deeds whether contractual or otherwise.

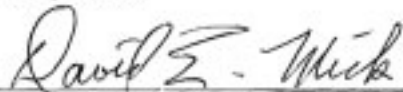
CONCLUSION

The Agency believes that the Union's grievance is without any foundation in the Federal Service Labor-Management Relations Statute, the Parties MCHA (Joint Exh. 1) or Agency policy. We have demonstrated in Point 1 how the Union was not short-changed in the collective bargaining process attendant to the Agency's library reconfiguration initiative. In sum, the Union has failed to produce any evidence that, practically speaking, supports their grievance. Based on these reasons and the above-stated arguments, the Agency respectfully requests that the Union's grievance be denied in its entirety.

Dated: Cincinnati, OH
November 3, 2007

FOR THE AGENCY:

Respectfully submitted,



David E. Mick
Human Resources Specialist (Labor/Employee Relations)

Attachments